

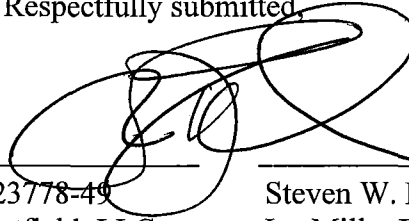
STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF CITIZENS)
WASTEWATER OF WESTFIELD, LLC FOR)
(1) AUTHORITY TO IMPLEMENT A SYSTEM)
DEVELOPMENT CHARGE; AND (2)) CAUSE NO. 44968
APPROVAL OF NEW RATE SCHEDULES)
IMPLEMENTING THE APPROVED SYSTEM)
DEVELOPMENT CHARGE)

SUBMISSION OF AGREED UPON PROPOSED ORDER

Petitioner, Citizens Wastewater of Westfield, LLC, by counsel, submits for the Commission's consideration and use, the attached Proposed Order. The attached Proposed Order has been reviewed and agreed upon by counsel for Petitioner and the Indiana Office of Utility Consumer Counselor.

Respectfully submitted,



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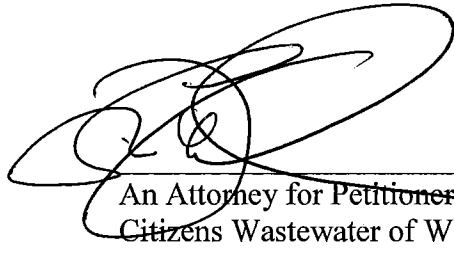
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served this 28th day of November, 2017 by electronic mail on the following:

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**STATE OF INDIANA
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**VERIFIED PETITION OF CITIZENS)
WASTEWATER OF WESTFIELD, LLC FOR)
(1) AUTHORITY TO IMPLEMENT A SYSTEM) CAUSE NO. 44968
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APPROVAL OF NEW RATE SCHEDULES) APPROVED:
IMPLEMENTING THE APPROVED SYSTEM)
DEVELOPMENT CHARGE)**

ORDER OF THE COMMISSION

Presiding Officers:

James F. Huston, Commissioner

Loraine L. Seyfried, Chief Administrative Law Judge

On August 1, 2017, Citizens Wastewater of Westfield, LLC (“Petitioner” or “Citizens Wastewater of Westfield”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) seeking: (i) authority to implement a system development charge (“SDC”) on a phased-in basis; and (ii) approval of new rate schedules implementing the proposed SDC. Also on August 1, 2017, Petitioner filed the direct testimony and attachments of Jeffrey A. Willman and Korlon L. Kilpatrick II in support of the relief requested.

Pursuant to notice and as provided for in 170 IAC 1-1.1-15, a Prehearing Conference was held in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana, at 2:00 p.m., on September 7, 2017. Proofs of publication of the notice of the Prehearing Conference were incorporated into the record and placed in the official files of the Commission. Petitioner and the Indiana Office of Utility Consumer Counselor (“OUCC”) appeared and participated in the Prehearing Conference. On September 20, 2017, the Commission issued a Prehearing Conference Order setting forth a procedural schedule for this Cause.

On October 6, 2017, the OUCC filed the direct testimony of Margaret A. Stull. Petitioner filed the rebuttal testimony of Korlon L. Kilpatrick II on October 25, 2017.

The Commission conducted an Evidentiary Hearing on November 20, 2017, at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Proofs of publication of the notice of the evidentiary hearing were incorporated into the record and placed in the official files of the Commission. Petitioner and the OUCC appeared at the hearing. The testimony and attachments of the Petitioner and OUCC were admitted into the record without objection. No members of the public appeared.

Based on the applicable law and the evidence of record, the Commission now finds:

1. Notice and Jurisdiction.

Notice of the hearings conducted in this Cause was given and published as required by Ind. Code § 8-1-1-8. Petitioner also published notice of the filing of its Verified Petition in this Cause in accordance with Ind. Code § 8-1-2-61. Petitioner is a public utility as defined by Ind. Code § 8-1-2-1. The Commission has authority to approve rates and charges for utility service under Ind. Code § 8-1-2-42. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this Cause.

2. Petitioner's Organization and Business.

Petitioner is an Indiana limited liability company with its principal office located at 2020 North Meridian Street, Indianapolis, Indiana 46202. Petitioner's sole membership interest is owned by Citizens Westfield Utilities, LLC, which is a subsidiary of Citizens By-Products Coal Company d/b/a Citizens Resources. Citizens Energy Group owns the stock of Citizens Resources. Petitioner owns, operates, manages, and controls plant, property, and equipment used and useful to provide wastewater utility service to more than 11,800 customers in and around the City of Westfield, Indiana.

3. Background and Relief Requested.

Petitioner's current base rates and charges were approved by the Commission in Cause No. 44835 by Order issued May 31, 2017 in which the Commission approved the terms of a Stipulation and Settlement Agreement ("Settlement Agreement") entered into between Citizens Wastewater of Westfield and the OUCC. Ordering paragraph 5 of the Order in Cause No. 44835 provides that Petitioner shall file a petition and case-in-chief requesting approval of a SDC in accordance with the terms of Paragraph 11 of the Settlement Agreement, which states: "on or before August 1, 2017, but not sooner than sixty (60) days after the issuance of a final Order in Cause No. 44835, Petitioner shall file a petition and case-in-chief asking the Commission to approve a SDC in an amount not less than the amount indicated in Petitioner's rebuttal testimony in Cause No. 44835."

In accordance with the foregoing terms, Petitioner filed its Verified Petition in this Cause on August 1, 2017 requesting authority from the Commission to include a new, non-recurring SDC of \$2,000 per equivalent dwelling unit ("EDU") as part of its tariff, which would be phased-in. Upon issuance of an Order in this Cause, Petitioner proposed that the SDC be \$1,000 per EDU and increase to \$2,000 per EDU six months thereafter.

4. Evidence of the Parties.

A. Petitioner's Direct Testimony.

Jeffrey A. Willman, Vice President of the Water Operations for Citizens Energy Group, sponsored Attachment JAW-1, the Verified Petition, as well as Attachment JAW-2, the legal notice published in connection with the relief sought. Mr. Willman stated that Petitioner provides wastewater service to approximately 11,800 customers in or around Westfield, which is one of the fastest growing communities in Indiana. Mr. Willman testified that Petitioner has invested over \$11 million in the wastewater utility's collection system, lift stations and treatment

plant since its acquisition.

Mr. Willman explained that Petitioner is seeking authority to implement a SDC, which will be called a "Connection Fee" in Petitioner's terms and conditions for service. Mr. Willman stated that an SDC is a one-time charge paid by a new customer for system capacity. Petitioner proposes the SDC be \$2,000 per EDU, to be phased-in over a 6-month period starting at \$1,000 per EDU upon the issuance of an Order and then increasing to \$2,000 per EDU six months thereafter.

Mr. Willman explained that in Cause No. 44835, Petitioner's most recent base rate case, the OUCC proposed that Petitioner implement an SDC due to concerns raised by some customers regarding the cost of growth-related capital projects. As part of the Settlement Agreement in that case, Petitioner agreed to request approval of SDC in accordance with terms outlined therein. Mr. Willman stated that the primary objective of the proposed SDC is to have developers and builders provide additional funding for system capacity and growth-related capital projects thereby helping avoid additional long-term debt and financing costs.

Mr. Willman described the outreach Petitioner has conducted with key stakeholders regarding its SDC. Mr. Willman explained that since the end of May 2017, Petitioner has engaged in outreach with, and provided information to, stakeholders such as the Westfield Mayor's office, the Westfield City Council, the Builders Association of Greater Indianapolis ("BAGI"), certain individual developers, and commercial and industrial customers. Petitioner also made a presentation at the June 12, 2017 Westfield City Council meeting and conducted several one-on-one meetings to solicit feedback. Mr. Willman testified that BAGI members suggested a phased-in approach to the SDC as a way to minimize financial impacts for existing communities and previously executed contracts.

Mr. Willman stated that he believes the proposed SDC is in line with those in many other Central Indiana communities. In order to impose less upfront burden on developers and builders, Mr. Willman also explained the proposed SDC would be assessed and collected at the time a building permit is filed for a new connection as opposed to when a plat is submitted for approval.

Korlon L. Kilpatrick II, Citizens Energy Group's Director, Regulatory Affairs, testified that in Cause No. 44835, Citizens Wastewater of Westfield and the OUCC agreed Petitioner would file a petition and case-in-chief asking the Commission to approve an SDC in an amount no less than the amount indicated in Petitioner's rebuttal testimony in Cause No. 44835. Mr. Kilpatrick stated that in Cause No. 44835 he presented in his rebuttal testimony a calculation of an SDC in the amount of \$2,000 per EDU. Mr. Kilpatrick testified that Petitioner continues to believe an SDC in the amount of \$2,000 per EDU is appropriate. To that end, Mr. Kilpatrick presented a calculation of the SDC in this proceeding as Petitioner's Exhibit No. 2, Attachment KLK-1.

Mr. Kilpatrick also sponsored Petitioner's Exhibit No. 2, Attachment KLK-3, which was a proposed version of Petitioner's Appendix A incorporating the non-recurring Connection Fee and Attachment KLK-4, which included certain minor revisions to the terms and conditions for service necessary to be consistent with the assessment of an SDC.

Mr. Kilpatrick stated that the purpose of Petitioner's proposed SDC is to provide a means of recovering costs associated with investments in the system outside of Petitioner's recurring retail rates and charges that is fair and equitable to all parties — *i.e.*, existing retail customers, prospective customers and members of the developer community. Mr. Kilpatrick noted that an SDC is a one-time, initial charge for a new connection that provides a reasonable means of ensuring that existing retail customers do not subsidize the cost of new development. Mr. Kilpatrick stated that funds from an SDC become contributions in aid of construction ("CIAC") and an SDC is not consideration for a retail sale of utility services.

Mr. Kilpatrick used the system buy-in method described in the American Water Works Association's ("AWWA") M1 Manual and *Financing and Charges for Waste Water Systems* (Water Environment Federation Manual of Practice No. 27) ("WEF MOP 27") to calculate the proposed SDC. Mr. Kilpatrick explained that the system buy-in method is based on existing facilities and capacities. Under this approach, customers are required to "buy-in" to existing system facilities, generally at a rate that reflects the prior investment of existing customers. Mr. Kilpatrick stated that essentially, net utility plant in-service is divided by the total system capacity in EDUs. Mr. Kilpatrick testified that using the system buy-in approach to calculate an SDC is most appropriate where current system facilities have adequate capacity to serve both existing and future customers. The rationale behind the capacity buy-in approach is that new customers should be charged for existing available capacity at a rate consistent with the average value of available capacity of the existing system.

Mr. Kilpatrick stated that Petitioner's proposed SDC is comparable to similar fees charged in the central Indiana market. Mr. Kilpatrick noted that CWA Authority, Inc. has a connection fee of \$2,530. Mr. Kilpatrick presented Petitioner's Exhibit No. 2, Attachment KKK-2, which shows that multiple cities and towns surrounding Marion County have similar fees or charges, which are in the approximately \$1,000 to \$5,000 range.

Mr. Kilpatrick stated that based on feedback from some of its external stakeholders, Petitioner is proposing to phase-in the SDC. Upon issuance of an Order in this Cause, Petitioner is proposing that the SDC be \$1,000 per EDU. Six months thereafter, Mr. Kilpatrick stated that the rate would escalate to \$2,000 per EDU. Mr. Kilpatrick noted that this approach allows the developer community to "step into" the new rate and recognizes that the developers have a number of lots ready for connection that do not have the SDC built into the price of the home.

B. OUCC's Testimony.

Margaret Stull, Senior Utility Analyst in the Water/Wastewater Division of the OUCC, recommended the Commission approve the SDC as proposed by Petitioner. Ms. Stull referenced the AWWA M1 Manual, and defined an SDC as "a one-time charge paid by a new water system customer for system capacity." Ms. Stull also described other aspects of an SDC as set forth in the M1 Manual, including that SDCs can be a mechanism for recovering the costs of plant that has already been constructed from the customers served by the plant as they connect. Ms. Stull explained that SDCs usually keep customer rates lower because these fees reduce the amount of rate base upon which an investor is allowed to earn a return.

Ms. Stull confirmed that Petitioner is proposing to implement an SDC of \$2,000 per EDU, consistent with the Settlement Agreement and Final Order in Cause No. 44835. Ms. Stull stated that Petitioner is also proposing language be added to its tariff, as well as minor changes to its terms and conditions for service, which are needed to implement the proposed SDC. Ms. Stull explained that Petitioner will refer to the SDC as a “connection fee” to be consistent with the language used by CWA Authority, Inc.’s tariff. To avoid any confusion, Ms. Stull encouraged both utilities to amend this terminology or define “connection fee” in their respective terms and conditions for service to convey how CWA Authority, Inc. and Petitioner use the term.

Ms. Stull explained that Petitioner’s SDC was calculated in accordance with the capacity buy-in method, and the OUCC accepts Petitioner’s use of this method and the resulting \$2,000 per EDU. Ms. Stull next described Petitioner’s proposed phase-in of the SDC. Ms. Stull stated that the OUCC does not oppose the proposed phase-in of the SDC, but explained it would be appropriate to establish a date certain of July 1, 2018 when the SDC would increase to the full \$2,000. With this modification, Ms. Stull recommended the Commission accept Petitioner’s proposed SDC, phase-in, and proposed language changes to its tariff and terms and conditions for service.

C. Petitioner’s Rebuttal Testimony.

In rebuttal, Mr. Kilpatrick noted that Ms. Stull made two primary recommendations: (i) Petitioner and CWA Authority, Inc. define “connection fee” in their respective terms and conditions for service to make it clear the term refers to an SDC, rather than to compensate the utilities for the cost of physically connecting; and (ii) Petitioner establish a date certain of July 1, 2018 on which the SDC would increase from \$1,000 per EDU to \$2,000 per EDU, assuming the Commission issues an Order by the end of this year.

Mr. Kilpatrick testified that Petitioner agreed with each of Ms. Stull’s recommendations. Mr. Kilpatrick stated that upon Commission approval of an Order in this proceeding approving the SDC, Petitioner and CWA Authority, Inc. would amend their terms and conditions for service to include a definition of “connection fee.” Mr. Kilpatrick noted that this definition had been shared with and approved by the OUCC. Mr. Kilpatrick also agreed the \$2,000 per EDU charge could be implemented six months after the date on which a final Order is issued in this Cause or July 1, 2018, whichever is later.

5. Discussion and Findings.

In Cause No. 44835, we approved the terms of a Settlement Agreement entered into between Citizens Wastewater of Westfield and the OUCC. Under the terms of the Settlement Agreement, Petitioner agreed it would file a petition and case-in-chief seeking approval of an SDC in an amount no less than \$2,000 per EDU within a certain time following the issuance of the Order in Cause No. 44835. The \$2,000 per EDU minimum SDC agreed upon in the Settlement Agreement was supported by a calculation presented by Mr. Kilpatrick. Mr. Kilpatrick used the system buy-in method described in the AWWA M1 Manual and WEF MOP

27 to calculate the \$2,000 per EDU SDC. The Commission found the foregoing terms of the Settlement Agreement to be reasonable in our May 31, 2017 Order in Cause No. 44835.

Petitioner initiated this proceeding in accordance with the terms of the Settlement Agreement. Mr. Kilpatrick testified that he continues to believe an SDC in the amount of \$2,000 per EDU is consistent with WEF MOP 27. To that end, Mr. Kilpatrick presented a calculation of the \$2,000 per EDU SDC as Petitioner's Exhibit No. 2, Attachment KKK-1, which was developed using the system buy-in method. The OUCC accepted Citizens Wastewater of Westfield's proposed SDC of \$2,000 per EDU. OUCC witness Stull testified: "[t]he OUCC accepts Westfield's use of the capacity buy-in method and the results of that calculation."

We find the proposed SDC of \$2,000 per EDU is reasonable and should be approved. Petitioner's proposed SDC will provide additional capital that can be used to help reduce the amount of additional long-term debt issued to fund needed improvements, which in turn can result in lower retail rates and charges for existing customers. The system buy-in/capacity buy-in methodology used to develop the SDC is supported by the AWWA M1 Manual and WEF MOP 27. The methodology also has been used by other utilities in the development of SDCs approved by the Commission. *See e.g., Re American Suburban Utilities*, IURC Cause No. 44593 (approved July 22, 2015); *Re South Haven Sewer Works*, IURC Cause No. 42985 (approved June 7, 2006).

We also find phasing-in the SDC is reasonable and consistent with the public interest. The OUCC did not oppose Petitioner's proposal to phase-in the SDC. Under Petitioner's proposal an SDC of \$1,000 per EDU would be implemented when a final Order is issued in this Cause. Ms. Stull suggested, and Mr. Kilpatrick agreed, that the full \$2,000 per EDU charge should be implemented six months after the date on which a final Order is issued in this Cause or July 1, 2018, whichever is later. This phase-in of the SDC will allow developers in Petitioner's service territory to adequately prepare for and make any necessary adjustments necessary to accommodate the implementation of the full \$2,000 per EDU SDC.

Based on the foregoing, we find Citizens Wastewater of Westfield should be authorized to establish and implement an SDC of \$1,000 per EDU upon the issuance of this Order and filing of a tariff sheet in the form of Petitioner's Exhibit No. 2, Attachment 3 with the Commission's Water/Wastewater Staff. The SDC should be increased to \$2,000 six months from the date of this Order or on July 1, 2018, whichever is later. Received SDCs are to be treated as CIAC for accounting purposes. We further approve the changes to Petitioner's terms and conditions for service set forth in Petitioner's Exhibit No. 2, Attachment 3, relating the imposition of an SDC.

Petitioner and the OUCC also agreed that Petitioner and CWA Authority, Inc. should amend their respective terms and conditions for service via 30-day filings to make it clear that the term "connection fee" refers to an SDC as opposed to a charge for the physical connection. Mr. Kilpatrick noted in his rebuttal testimony that the OUCC agreed with the inclusion of the following definition of "connection fee" in the terms and conditions for service of Petitioner and CWA Authority, Inc.:

A per equivalent dwelling unit ("EDU") charge to be paid by all new connections to the Sewage Disposal System as a contribution of capital toward existing or future facilities necessary to meet the service needs of new customers.

We find the agreed upon addition to Petitioner's and CWA Authority, Inc.'s terms and conditions for service to be reasonable. Petitioner and CWA Authority, Inc. should submit the agreed-upon changes to their respective terms and conditions to the Commission as soon as practicable after the issuance of this Order via the 30-day filing process.

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

1. Citizens Wastewater of Westfield is authorized to immediately establish and implement a system development charge for wastewater utility services in the amount of \$1,000 per equivalent dwelling unit. On July 1, 2018 or six months from the date of this Order, whichever is later, Citizens Wastewater of Westfield is authorized to increase the system development charge for wastewater utility services to \$2,000 per equivalent dwelling unit.

2. Citizens Wastewater of Westfield is authorized to reflect received system development charges on its books and records as contributions in aid of construction.

3. Prior to placing into effect the system development charges approved above, Citizens Wastewater of Westfield shall file with the Water/Wastewater Division of the Commission, a tariff sheet in the form of Petitioner's Exhibit No. 2, Attachment 3, as well as the minor changes to Petitioner's terms and conditions for service set forth in Petitioner's Exhibit No. 2, Attachment 4. The initial system development charge will become effective upon approval by the Water/Wastewater Division of the Commission.

4. As soon as practicable following the issuance of this Order, Citizens Wastewater of Westfield and CWA Authority, Inc. shall submit revised versions of their respective terms and conditions for service to the Commission containing the definition of connection fee set forth in Finding Paragraph No. 5 above for approval via the 30-day filing process.

5. This Order shall be effective on and after the date of its approval.

ATTERHOLT, FREEMAN, HUSTON, WEBER AND ZIEGNER CONCUR:

APPROVED:

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

Mary M. Becerra
Secretary of the Commission