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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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| **PETITION OF COMMUNITY UTILITIES OF INDIANA, INC. FOR: AUTHORITY TO INCREASE ITS RATES AND CHARGES FOR WATER AND WASTEWATER UTILITY SERVICE; APPROVAL OF NEW SCHEDULES OF RATES AND CHARGES APPLICABLE THERETO; AUTHORITY TO RECOVER CERTAIN COSTS INCURRED IN CONNECTION WITH CAUSE NOS. 44724, 45342 AND 45389; AUTHORITY TO RECOVER COSTS INCURRED AND DEFERRED IN CONNECTION WITH THE COVID-19 PANDEMIC; APPROVAL OF A NEW RESIDENTIAL LOW-INCOME RATE FOR WATER AND WASTEWATER SERVICE; AND OTHER APPROPRIATE RELIEF** | **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)**  **)** | **CAUSE NO. 45651**  **APPROVED:** |

ORDER OF THE COMMISSION

**Presiding Officers:**

**Stefanie N. Krevda, Commissioner**

**Jennifer L. Schuster, Administrative Law Judge**

On December 7, 2021, Community Utilities of Indiana, Inc. (“Petitioner,” “Community” or “CUII”) filed a Petition with the Indiana Utility Regulatory Commission (“Commission”) seeking authority to increase its rates and charges for water and wastewater utility service and associated relief under Ind. Code §§ 8-1-2-61, 8-1-2-42.7, and 8-1-2-46. On December 7, 2021, CUII also filed its case-in-chief, workpapers, and information required by the minimum standard filing requirements (“MSFRs”) set forth at 170 Ind. Admin. Code 1-5-1 *et seq*. CUII’s case-in-chief included testimony, attachments, and workpapers from the following witnesses:

* Steven M. Lubertozzi, President of CUII;
* Shawn M. Elicegui, EVP, Risk and Corporate Secretary for Corix Infrastructure, Inc.;
* Loren Grosvenor, State Operations Manager for CUII;
* Andrew Dickson, Senior Financial Analyst for CUII;
* Robert A. Guttormsen, Financial Planning and Analysis Manager for CUII; and
* James Kilbane, Finance and Analysis Manager for Corix.

On December 22, 2021, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed a Notice of Non-Compliance with the MSFRs. On January 14, 2022, Petitioner filed its response and supplemental MSFRs.

On January 21, 2022, Petitioner filed its response to the Commission’s Docket Entry dated December 16, 2021, regarding approval of a procedural schedule, as agreed to by the parties. On February 10, 2022, the Commission issued a Docket Entry establishing the procedural schedule. In that Docket Entry, the Commission agreed with the OUCC that Petitioner’s initial filing of its case-in-chief on December 7, 2021 did not comply with the Commission’s MSFRs and thus, for purposes of the 300-day deadline established by Ind. Code § 8-1-2-42.7, Petitioner’s case-in-chief was deemed as filed on January 14, 2022.

On January 28, 2022, Petitioner filed notification that the direct testimony of Mr. Guttormsen would be adopted by Mr. Dickson.

A Petition to Intervene was filed by Lakes of the Four Seasons Property Owners’ Association (“LOFS”) on February 15, 2022. LOFS is a property owners’ association that represents the residents within Lakes of the Four Seasons Subdivision, and the residents and the association are water and wastewater customers of Petitioner. The Petition to Intervene was granted without objection on February 23, 2022.

The Commission conducted a public field hearing in this Cause at the Boone Grove High School, 260 South 500 West, Valparaiso, IN 46385, on April 12, 2022 at 6:00 p.m. (local time). Petitioner, the OUCC, and LOFS appeared at the hearing, and members of the public offered oral and/or written comments.

On April 21, 2022, the OUCC filed an agreed upon request for the modification of the procedural schedule to allow a two-day extension of time for the OUCC and LOFS to file their cases-in-chief. Subsequently, on April 28, 2022, the OUCC filed approximately 325 customer comments as well as the testimony and attachments of the following witnesses:

* Margaret A. Stull, Chief Technical Advisor in the Water/Wastewater Division;
* James T. Parks, Senior Analyst in the Water/Wastewater Division;
* Carl N. Seals, Assistant Director in the Water/Wastewater Division; and
* Scott A. Bell, Director of Water/Wastewater Division.

LOFS filed the testimony and attachments of the following witnesses on the same day:

* Robert Holden, Senior Vice President and Head of Wastewater Group at Wessler Engineering;
* Rick Cleveland, Community Manager of LOFS; and
* Gary M. VerDouw, CEO of VerDouw Regulatory Services LLC.

On April 27, 2022, Petitioner filed its Notice of Corrections to the prefiled direct testimony of Mr. Lubertozzi. On April 28, 2022, the Commission issued a Docket Entry requesting updated workpapers, including “workpaper k.” On April 29, 2022, Petitioner submitted an updated version of “workpaper k” in response to the Commission’s Docket Entry dated April 28, 2022.

On May 26, 2022, Petitioner filed an unopposed motion for extension of time to allow one additional day to file its rebuttal testimony. The Commission granted the motion, and Petitioner filed its rebuttal testimony on May 27, 2022, which included testimony and attachments of Mr. Lubertozzi, Mr. Grosvenor, Mr. Kilbane, Mr. Dickson, and three additional witnesses from the engineering firm Baxter & Woodman, Inc. (“Baxter & Woodman”):

* Amanda Streicher, Assistant Wastewater Department Manager, Costa Rica Wastewater Department Manager, and Engineer;
* Carl Fischer, Wastewater Technical Director; and
* Sean O’Dell, Executive Vice President at Baxter & Woodman.

On June 17, 2022, the OUCC and LOFS filed a Joint Motion to Strike all of the documents for which Petitioner improperly requested administrative notice as well as portions of the pre-filed rebuttal testimony of Loren Grosvenor. Petitioner filed its response on June 22, 2022. The OUCC and LOFS filed its joint reply to Petitioner’s response on June 24, 2022.

On June 23, 2022, the Commission issued a Docket Entry requesting Petitioner respond to various requests for information. Petitioner filed its response on June 27, 2022.

The Commission conducted a two-day public evidentiary hearing beginning on June 28, 2022, at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. The parties appeared by counsel and participated in the hearing. The presiding officer denied the Joint Motion to Strike through an oral ruling.

Having considered the evidence presented and the applicable law, the Commission now finds:

# **Notice and Jurisdiction.** Notice of the filing of the Petition was given and published by Petitioner, as required by law. Notice was given by Petitioner to its customers summarizing the nature and extent of the proposed changes in its rates and charges for water and wastewater services. Notice of the hearing in this case was given and published by the Commission as required by law. Petitioner is a public utility as defined in Ind. Code § 8-1-2-1(a). Pursuant to Ind. Code §§ 8-1-2-42 and -42.7, the Commission has jurisdiction over Petitioner and Petitioner’s rates and charges for utility service.

# **Petitioner’s Organization and Business.** Petitioner is a public utility incorporated under the laws of Indiana with its principal office address located at 500 W. Monroe Street, Suite 3600, Chicago, IL 60661. Petitioner was created in 2015 in order to implement a merger into a single entity of the three separate wholly-owned Indiana subsidiaries of Corix Regulated Utilities (US), Inc. (“CRU”) that provided water and sewer services in Indiana. Those subsidiaries were Twin Lakes Utilities, Inc., Water Service Company of Indiana, Inc., and Indiana Water Service, Inc. The merger was approved by the Commission’s July 8, 2015 Order in Cause No. 44587.

Petitioner provides water service to approximately 5,300 equivalent residential connections (“ERCs”) and wastewater service to approximately 3,500 ERCs. Petitioner renders such water and wastewater utility service by means of utility plant, property, equipment, and related facilities owned, operated, managed, and controlled by it, which are used and useful for the convenience of the public in the provision of water and wastewater service. Petitioner’s service area includes portions of Jasper, Lake, Newton, and Porter counties.

# **Existing Rates.** The basic rates and charges for water and wastewater utility service were approved by the Commission on January 24, 2018, in Cause No. 44724. In that case, the Commission also approved single-tariff pricing for Petitioner. The petition initiating Cause No. 44724 was filed with the Commission on December 15, 2015; therefore, in accordance with Ind. Code § 8-1-2-42(a), more than 15 months have passed between CUII’s most recent petition for an increase in basic rates and charges and the filing of CUII’s petition initiating this Cause.

# **Relief Requested.** Petitioner requests authority to increase its rates and charges for water and wastewater utility service and approval of new schedules of rates and charges applicable to such water and wastewater utility service. Petitioner also requests authority to recover certain costs incurred in connection with Cause Nos. 45342 and 45389, authority to recover deferred costs associated with the COVID-19 pandemic, approval of a new low-income rate, and approval of other appropriate relief.

# **Test Year and Rate Base Cut-Off.** As authorized by Ind. Code § 8-1-2-42.7(d)(1), Petitioner proposed a forward-looking test year using projected data for the twelve-month period ending September 30, 2023. Petitioner proposed Phase I rates to be effective on or about October 1, 2022,[[1]](#footnote-2) and Phase II rates to be made effective on or about October 1, 2023.

# **Rate Base.**

## **Water System**.

### **Uncontested Issues.**

The parties agreed to the following water system rate base components:



We note that the parties appear to be in agreement with respect to accumulated depreciation methodology, although their calculations differ as their rate base recommendations differ. In addition, the parties are in agreement on the treatment of contributions in aid of construction and the net plant acquisition adjustment.

### **Well Nos. 12 and 13.**

#### Petitioner’s Evidence. Community included in its proposed water rate base $351,157 of costs for two new wells within its Twin Lakes service territory. Petitioner witness Loren Grosvenor testified both wells are in service and that Community was just finishing the landscaping. Mr. Grosvenor explained the costs of these wells were largely based on the actual cost of installing the new wells and that, as of October 1, 2021, Community had spent $340,425 to complete the wells. The additional $10,732 ($351,157 - $340,425) represents landscaping costs still outstanding. Pet. Exh. No. 3 at 25 - 26.

#### OUCC’s Evidence. OUCC witness Margaret Stull recommended the exclusion of $340,425 of costs related to well nos.12 and 13. She explained that her review of the assets added to utility plant in service (“UPIS”) since Community’s last rate case revealed that the majority of the cost for these wells had already been included in Community’s UPIS. Pub. Exh. No. 1 at 22.

#### Petitioner’s Rebuttal Evidence. Petitioner witness Andrew Dickson accepted Ms. Stull’s recommendation to exclude $340,425 of costs for well nos. 12 and 13. Mr. Dickson also updated Community’s forecast of remaining costs for this project from $10,732 to $6,061 to reflect $6,000 in capital outlays and $61 of associated AFUDC to perform the final landscaping associated with the project. Pet. Exh. 4-R at 13.

#### Commission Discussion and Findings. We find these new wells are necessary in order for Petitioner to continue to have adequate water supply. As Petitioner has agreed with the OUCC’s proposal to remove $340,425 in forecasted costs associated with well nos. 12 and 13, we also find that Petitioner’s utility plant in service should include only the projected $6,061 of additional costs to complete the landscaping for this project.

### **Twin Lakes Iron Filter Improvement Project.**

#### Petitioner’s Evidence. Petitioner witness Loren Grosvenor testified that the Twin Lakes Water Treatment Plant (“WTP”) Iron Filter improvement project, which was pre-approved in Cause No. 45342, includes the South Filter replacement, pumping and piping improvements, SCADA improvements, and the other miscellaneous improvements that the Commission pre-approved in Cause No. 45342. Pet. Exh. No. 3 at 16-17. Mr. Grosvenor testified that the estimated cost of the Twin Lakes WTP Iron Filter is $2,288,765 (per rebuttal), which includes the pre-approved cost of the projects of $2,079,406, plus expenditures associated with AFUDC, capitalized time (“Cap Time”), and regulatory costs. *Id.*

#### OUCC’s Evidence. OUCC witness Margaret Stull testified that CUII’s proposed costs for this project exceeded the amount preapproved by the Commission in Cause No. 45342 by $276,410 ($2,355,816 - $2,079,406), and according to CUII’s “*Pro forma* Capital Investment Workpaper,” $195,601 of costs are unexplained by the Company. Pub. Exh. No. 1 at 21. She testified that CUII does not state in its case-in-chief how much was incurred for regulatory costs for this project, and she stated that these non-construction costs should only be included in CUII’s consolidated water rate base to the extent they are reasonable. *Id.* She excluded the $195,601 unexplained costs from her recommended consolidated water rate base because no CUII witness provided substantive evidence to support the additional costs. *Id.*

#### Petitioner’s Rebuttal. Petitioner’s witness Andrew Dickson testified that he disagreed with Ms. Stull’s exclusion of the $195,601. Pet. Exh. No. 4-R, p. 11. He testified that Ms. Stull’s analysis does not discuss CUII’s separate project where regulatory costs related to the Iron Filter replacement project were booked, does not acknowledge the prudence of capitalized time and AFDUC already incurred, and generally does not create an accurate comparison of specific preapproved costs that have (or have not) been exceeded. *Id.* at 11. Mr. Dickson testified that costs incurred related to seeking preapproval in Cause No. 45342 were tracked in a separate project and were not included in the total project cost forecast for the Iron Filter project. However, the Company did include for recovery costs incurred related to seeking preapproval in Cause No. 45342, and the Company only included a return “of,” not a return “on,” over the course of three years (Attachment AD-R04, workpaper wp-k). *Id.* He testified that AFUDC and Cap time were included in the direct case forecast of $2,355,816. *Id.* Mr. Dickson testified that he disagrees with Ms. Stull’s assertion that $195,601 in forecasted costs for this project are unexplained and provided a breakdown of the expenditure type included in the actual costs incurred and forecasted remaining outlay, as well as an updated forecast on the project. *Id.* at 11-12. Mr. Dickson testified that Ms. Stull did not make a determination regarding the reasonableness of CUII’s captime or AFUDC, instead only removing the portion that she believed to be unexplained. *Id.* Mr. Dickson testified that all of the captime and AFUDC have been prudently incurred or will be (in the case of future captime and AFUDC). *Id.* Mr. Dickson testified that CUII’s total project variance compared to what was approved by the Commission is 1.76% - a feat for a project of this size. *Id.*

Mr. Dickson summarized his testimony on this issue in the following chart:

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*Id.* at 12.

Mr. Dickson testified that the only amount in need of explanation is $36,562 in costs incurred in the construction and engineering phases of this project above and beyond the preapproved amount. *Id.* Mr. Grosvenor testified that this $36,562 stems from a few changes made by change order, including the addition of exterior lighting for security and safety (approximately $3,500), $8,500 to obtain gas service from NIPSCO, and the addition of two more mixing station pipe stand supports that were deemed necessary (approximately $3,300). Pet. Exh. No. 2-R, p. 38. Mr. Grosvenor also testified that CUII incurred approximately $4,700 for potholing service to identify well discharge locations and $16,000 for engineering to move the chemical building to a more accessible location that did not require transmission pipe to be moved—a decision that ultimately saved money. *Id.* Mr. Grosvenor testified that these costs are necessarily and prudently incurred as a part of the pre-approved Iron Filter Improvements project and are needed to complete the project. *Id.* at 37.

#### Commission Discussion and Findings. In Cause No. 45342, we found that the South Filter was beyond its useful life and its failure “would be catastrophic.”[[2]](#footnote-3) Accordingly, the Commission approved CUII’s request for preapproval expenditures for the project up to $2,079,406, which excluded AFUDC, Cap Time and regulatory costs. The Commission also stated that “[e]xpenditures associated with AFUDC, Cap Time, and regulatory costs are also approved to the extent reasonable, which shall be determined in CUII’s next rate case. Once any of the Proposed Improvements are in service, the associated expenditure as approved may be included in rate base for ratemaking purposes in CUII’s subsequent rate proceedings.”[[3]](#footnote-4)

In this case, Mr. Dickson testified that $172,796 of the amount Ms. Stull proposed to exclude is for AFUDC and Cap Time, which was preapproved in Cause No. 45342. Specifically, Mr. Dickson testified that:

The total capitalized time for this project is forecasted to be $50,553, with $49,791 already incurred. The AFUDC incurred to-date is $79,532, with an additional $42,712 included to culminate the project.

Pet. Exh. No. 4-R at 12.

Ms. Stull argued that CUII had not met its burden to show that the costs were reasonable, as no detailed amount of AFUDC and cap time was provided for each project. CUII argued that AFUDC and cap time already had been approved in Cause No. 45342 as reasonable expenditures. However, what we found in Cause No. 45342 was that “expenditures associated with AFUDC, Cap Time, and regulatory costs *are approved to the extent reasonable*, which shall be determined in CUII’s next rate case.” Cause No. 45342, Final Order at 10 (Ind. Util. Regul. Comm’n Nov. 14, 2020) (emphasis added). While CUII argued that its AFUDC and cap time calculations were reasonable, without detail we cannot agree and we deny its request to include it in Petitioner’s rate base in this proceeding. A flat assertion that a cost is reasonable does not meet the requirement that costs be sufficiently detailed to allow the Commission to make an informed decision – in short, that we are provided with information.

As to the remaining $36,562, Mr. Grosvenor testified that approximately $8,500 of the cost increase was to obtain gas service from NIPSCO. Pet. Exh. No. 3-R, p. 38. In addition, two more mixing station pipe stand supports were deemed necessary at a cost of approximately $3,300.  *Id.* CUII also incurred approximately $4,700 for potholing service to identify well discharge locations. Finally, approximately $16,000 was for engineering to move the chemical building to a more accessible location that did not require transmission pipe to be moved. *Id.* Accordingly, the evidence reflects that the additional $16,000 of engineering costs actually reduced the overall cost of the project.

We reject the inclusion of the entire amount of additional costs incurred by CUII for completion of the iron filter improvement project. CUII did not show what portion of the project required captime, or how AFUDC was calculated. In the absence of those details, we are left to wonder how CUII reached its conclusions. This is not a way to show that the costs were fully explained, are reasonable, and were prudently incurred. Accordingly, we limit the costs we approve for inclusion in rate base for the iron filtration improvement project to $2,160,215.

### **AMR Meters.**

#### Petitioner’s Evidence. Loren Grosvenor testified that CUII plans to replace customer meters in all three of CUII’s water systems. Pet. Exh. No. 3 at 16. He testified that Automatic Meter Reading (“AMR”) meters will be used for all meter replacements. *Id.* Mr. Grosvenor testified that customer meter replacements began in 2021, and CUII estimates 1,564 meters were replaced in 2021, and about 1,653 meters were replaced in 2022. Mr. Grosvenor testified that before 2021, all meters in CUII’s systems were MasterMeter AMR meters; however, these meters began to fail on a widespread scale in 2020 and 2021. *Id.* at 17. Mr. Grosvenor testified that meters need to be replaced so that CUII can continue to collect accurate water usage readings from customers. *Id.* Mr. Grosvenor testified that CUII estimated $450,233 for AMR meter replacements in 2021, and $367,142 ($390,588 in rebuttal) for AMR meter replacements in 2022. Mr. Grosvenor testified that all meters for 2021 had been purchased and the estimated costs are reflective of actual costs already incurred. *Id.* He testified that the cost estimate for 2022 includes direct purchase of materials and capitalized time, which is estimated at 1 hour per meter replacement. *Id.*

#### OUCC’s Evidence. OUCC witness Carl Seals expressed concern that the proposed meter replacement program appears to be a response to poor planning and execution of prior meter replacements. Pub. Exh. No. 3 at 3. As an example, he cited the use of three different meter manufacturers since 2013. Pub. Exh. No. 3 at 8. He testified that, in response to OUCC Data Request 3.01, Petitioner stated that it did not replace a significant number of meters in 2020 due to the COVID-19 pandemic: “Petitioner stopped activities that required direct interactions with customers from March to December of 2020. The 106 meters replaced during 2020 were installed across an approximate ten-month period in 2013. Accordingly, they were approximately seven years old.” *Id.* Mr. Seals testified that this is not a normal replacement cycle for a water meter. *Id.* He testified that, according to 170 Ind. Admin. Code 6-1-10, 5/8-inch meters are to be tested or replaced every ten years or 100,000 cubic feet registered. *Id.* Given that CUII indicated in response to OUCC Data Requests 3.03 and 3.04 that it did not actually track meter failures, Mr. Seals also indicated uncertainty as to whether estimated meter reads actually indicate the meter is failing: “the problem could be as simple as the meter reading vehicle failing to drive down a particular street, thereby not picking up any reads for that street.” *Id.* at 5. For these reasons, Mr. Seals concluded that it is impossible for the utility to simply conclude that meter estimates automatically equal meter failures as CUII suggested.

Mr. Seals also noted that in 2021 there were thirty-one (31) accounts in Twin Lakes that received as many as ten (10) sequential estimates throughout the year, suggesting that it took the utility as long as nine months to recognize and respond to a previous period estimated read. He further indicated that delays of as much as nine months in assessing and correcting this problem can cause customer leaks to continue undiscovered. In addition, such delays can cause a failure to recognize and timely report and compensate the utility for legitimate high customer usage, such as the filling of a pool, or heavy lawn irrigation. He added that these unexplained high bills due to failures to accurately read meters create problems for customers as well, as they may be suddenly billed for large amounts of usage of which they were not previously aware, until receiving the “catch-up” bill when the meter is actually read. *Id.* at 5.

Mr. Seals testified that CUII’s parent company Corix began a transition to Neptune meters in 2021, which may allow for a 10-15% discount on market value and annual pricing certainty. *Id.* at 6. Mr. Seals testified that Neptune is a well-established, widely-used meter manufacturer. *Id.*

Mr. Seals stated that if the meters were failing prematurely, then the utility should have sought compensation, replacement, or technical assistance from the manufacturer, and Petitioner has presented no evidence that it has done so. *Id.* Mr. Seals recommended that, in the future, CUII more carefully collect, analyze, and report data regarding the need for meter replacements and meter reading activities in general, and more aggressively pursue options other than wholesale replacement. *Id.* at 7.

#### LOFS’ Evidence. LOFS witness Rick Cleveland and Robert Holden both testified that they disagree with an increase in rates for the replacement of AMR meters. LOFS Exh. No. 1 at. 9; LOFS Exh. No. 3 at 12-13. Mr. Holden testified that the costs of the AMR replacement program should be denied because CUII has not provided any explanation of its due diligence regarding warranties applicable to failed meters and has not presented evidence that there are less costly alternatives to its replacement plan, and because those costs should be spread out over a longer period of time. LOFS Exh. No. 3 at 12-13. Mr. Cleveland testified to his opinion that CUII’s parent corporation made the decision for all of its subsidiary utilities to transition to new AMR meters to generate a return of and on new assets, and that CUII is blindly following that directive without regard to the actual need, the impact on rates, or the potential for using the existing meters. LOFS Exh. No. 1 at 9.Mr. Holden and Mr. Cleveland recommend the Commission reject CUII’s request for recovery of AMR costs for these reasons.

#### Petitioner’s Rebuttal. In response to Mr. Seals’ statement that the meter problem could be as simple as the meter reading vehicle failing to drive down a particular street, Mr. Grosvenor testified that this would not be a realistic possibility. Pet. Exh. No. 3-R at 40. Mr. Grosvenor testified that CUII is replacing meters that are failing. *Id.* at 41. He stated that the meters are failing before the end of their 10-year life expectancy, and that the cost of sending the meters back to the manufacturer for repair under the existing warranty is higher than the cost of replacement. *Id.* Mr. Grosvenor testified that taking that approach would result in spending money on meters that will need to be replaced in the next two to three years based on life expectancy and inconveniencing customers multiple times to reinstall meters. *Id.* Mr. Grosvenor provided a cost comparison of sending a meter back for repair ($252.44) and replacing the meter ($231.25). *Id.* at 41-42.

#### Mr. Grosvenor also testified that purchasing meters with CUII’s corporate parent provides better pricing than CUII would otherwise get through bulk purchasing power and doing so provides operational benefits. *Id.* at 42.

Mr. Grosvenor testified to how CUII will handle failures of the new Neptune meters going forward, stating that CUII will keep a number of the Neptune meters available and will send the meters back for warranty repairs during the early portion of the warranty period when it makes most financial sense. *Id.* He testified that replacement of the meters is necessary for CUII to continue to accurately measure customer usage and accurately bill customers and testified to his opinion that the Neptune meters that are being installed are reliable and a good solution. *Id.* at 45.

#### Commission Discussion and Findings. In support of its request to replace its meters, Petitioner stated that it had evidence showing that CUII’s meters are failing on a widespread basis before the end of their warranty period. However, the evidence shows that some meters are not being read, whether due to technical (failure) or operational issues. While stating in response to OUCC DR 3.03 and 3.04 that it does not track meter failures, CUII nevertheless claims in rebuttal that it tests all failed meters. Mr. Grosvenor testified that before CUII removes the meter, “we test it to ensure that it has malfunctioned, as opposed to being the result of some other issue.” Pet. Exh. 3-R at 40. CUII offers no other evidence of this testing. Regarding the manufacturer of CUII’s proposed replacement meters, OUCC Witness Seals testified that when meters were failing prematurely, “the utility should have sought compensation, replacement or technical assistance from the manufacturer.” Public’s Exh. No. 3 at p. 4. LOFS witness Holden recommended “the costs of the AMR replacement program should be denied because CUII has not provided any explanation of its due diligence regarding warranties applicable to failed meters.” LOFS Exh. No. 1 at 4.

CUII’s decision not to track meter failures presents problems. While CUII might test a meter as it is being removed, a failure to consistently track meter problems means that no comprehensive plan is possible to address them. One objection to the inclusion of the cost of the new meters in rate base was the contention made by the OUCC and LOFS that CUII should have availed itself of the manufacturer’s warranty before replacing the meters. CUII stated that it has considered alternatives to replacing meters upon their failure, including sending the meter back for repairs under the warranty and replacing the meter, with analysis showing that replacing the meters is the cost-saving alternative. Mr. Grosvenor presented the following data showing that the cost of sending a meter back for repair is higher than the cost of replacing the meter.



Pet. Exh. No. 3-R at 42.

By CUII’s calculation, the cost of purchasing and installing a new meter is $231.25, as compared to $252.44 to return a meter under warranty. *Id.* But $183.28 of CUII’s repair cost per meter is attributable to meter removal, disassembly, reassembly, shipping and reinstallation. This attributes *four hours* of labor for each meter, which seems excessive, and a small downward adjustment in these values could easily change the repair/replace decision. It may still not make sense to repair the meters at this point in their service life. The evidence reflects that many of the meters on CUII’s system that have been replaced are approaching the end of their warranty period. However, we view CUII’s calculations with skepticism, especially in light of its failure to maintain records on meters.

We deny the proposed inclusion of meters and meter replacement cost in rate base as proposed by Petitioner. We require that Petitioner establish and maintain a meter monitoring program. This is consistent with Petitioner’s stated intent – and our previous order – to create an asset management plan. Therefore, we order Petitioner to provide evidence one year from the date of this order of its installation of any new meters and accompanying tracking system.

### **Other Capitalized Costs**.

#### OUCC’s Evidence. OUCC witness Margaret Stull noted Petitioner capitalized $18,297 of costs she asserts should have been recorded as operating expenses during the period incurred. These included filter media replacement, vehicle registrations, large meter testing, a hydrogeology study, and other evaluations. She maintained these costs should be excluded from Petitioner’s water system rate base. Ms. Stull explained that none of the excluded costs occurred during the base period and, therefore, no operating expense adjustment is necessary. Pub. Ex. No. 1, p. 22; *see* OUCC Attachment MAS-2.

#### Petitioner’s Rebuttal. Petitioner witness Andrew Dickson accepted Ms. Stull’s adjustment to remove costs associated with customer large meter testing ($1,950) and the South filter evaluation ($1,950), but he rejected the adjustment with respect to capitalization of the filter media replacement costs, testifying that it was required by the North Filter Rehabilitation, which required the removal of the filter’s media to replace the strainers. He argued that because the strainers could not be replaced without removing the filter media, the removal of that media is part of the project. Mr. Dickson also explained that rate base need not be adjusted for the vehicle registrations because those items had already been reclassified, resulting in a net zero impact to CUII’s utility plant in service. In other words, the vehicle registrations were not included in the utility plant in service numbers CUII has provided. Pet. Exh. No. 4-R at 16; *see* Attachment AD-R02.

##### Commission Discussion and Findings. We accept Petitioner’s explanation with respect to the vehicle registrations, but we reject Petitioner’s argument that its capitalization of operating costs related to filter media replacement is justified because it is part of a capital project. There was no evidence or suggestion the replacement of the strainers was done on an emergency basis. As such, there is no reason presented as to why Petitioner could not have coordinated the capital replacement of its strainers with the operating expense of changing out its filter media, which it must do periodically. In fact, we may assume that is precisely what happened as it would not have resulted in any different cost or expense than what was experienced. We reject Petitioner’s proposal to turn an out of period operating expense into a capital asset. As the parties have agreed to the removal of costs associated with large meter testing and the south filter evaluation, we find $8,906 should be removed from Petitioner’s water utility plant in service, with an associated adjustment to accumulated depreciation of $495 (Attachment MAS-2).

## **Wastewater.**

### **Uncontested Issues**.

### The parties agreed to the following wastewater system rate base components:

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### **Inflow and Infiltration (“I&I”) and Sewer Capital Improvement Program (“SCIP”).**

#### Petitioner’s Evidence. Petitioner witness Steven Lubertozzi testified that, in CUII’s last rate case, Cause No. 44274, the Commission directed CUII to develop a comprehensive I&I program as part of a broader plan in addressing three key aspects of service quality—wastewater backups in homes, manhole overflows, and discoloration of drinking water. Pet. Exh. No. 1 at 11. He described that CUII was directed to provide detailed plans to measurably improve performance in these three key aspects through the use of primary components: a comprehensive I&I program and a multi-faceted program to decrease incidences of discolored water. *Id.* Mr. Lubertozzi testified that CUII has continued to focus on a comprehensive I&I removal program, consisting of both assessment and corrective action. *Id.* at 13.

He explained CUII’s decision to engage an external engineering firm to provide recommendations for continued reduction to I&I, as well as to assist with a project to remediate all known defects in one of the basins in the LOFS subdivision with the most I&I and then compare historical I&I to post-remediation I&I. *Id.* at 14. Mr. Lubertozzi provided an overview of CUII’s recent request for proposals (“RFP”) to address I&I. He testified that the RFP is designed to identify a consultant to develop a forward-looking plan that will include a detailed summary of all defects identified, recommended rehabilitation, documented repairs, and identification of any defects that remain unresolved; additional, actionable recommendations for rehabilitation work necessary to address any unresolved defects and/or newly identified defects; recommendations for further investigation, rehabilitation, inspections, or other; estimates for how much I&I reduction the consultant estimates is feasibly achievable; and cost estimates for additional investigational, rehabilitation, and improvements recommended. *Id.* at 36-37.

Petitioner witness Loren Grosvenor testified that CUII made improvements to its wastewater system over the past several years by implementing the Sewer Capital Improvement Projects (“SCIP”). Pet. Exh. No. 3 at 13. He testified that the SCIP includes annual cleaning and televising of a minimum 10% of the wastewater collection system, providing video results and documentation from the CCTV contractor to CUII, along with plans for replacements and remediation of sections of the collection system. *Id.* Mr. Grosvenor testified that this includes identifying work regarding the reduction of I&I and any other issues. *Id.* Mr. Grosvenor stated that in 2020, CUII lined a total of 8,516 linear feet (“LF”) of sewer with defects identified from sewer televising between November 2020 and February 2021. *Id.* Mr. Grosvenor stated that in 2021, CUII’s SCIP work included investigating and engineering for the potential pigging of the Lift Station L forcemain and miscellaneous sewer repairs identified from sewer cleaning and televising. *Id.* Mr. Grosvenor testified that CUII staff also inspected manholes in July 2021 and 131 manholes were inspected by consulting engineers in September and October 2021 to identify potential manhole repairs. *Id.* Mr. Grosvenor stated that CUII will continue to inspect and televise sewer mains, inspect manholes, smoke sewers, and repair defects. *Id.* Mr. Grosvenor testified that, due to the COVID-19 pandemic, home inspections were discontinued in 2020, but CUII anticipates resuming in 2022. *Id.* at 14.

Mr. Grosvenor testified that, since its last rate case, CUII has completed several capital projects that are now in service. *Id.* Mr. Grosvenor testified that in Twin Lakes, SCIP projects include Cured-in-Place-Pipe (“CIPP”) lining of approximately 2,715 and 8,516 LF of sewer main in 2018 and 2020-2021, respectively; lining of 55 manholes in 2019; replacement of approximately 1,540 LF of watermain and 44 service lines in 2019; and replacement of approximately 3,607 LF of watermain and 56 service lines in 2021. *Id.* Mr. Grosvenor testified that in Water Service Corporation (“WSC”), SCIP included CIPP lining of approximately 720 LF of sewer main in 2018. *Id.* Mr. Grosvenor also provided a summary of the SCIP projects CUII still needs to complete between the base year and end of the test year. *Id.* at 15-16.

Mr. Grosvenor testified that the sewer improvements are necessary to remedy sewer defects identified by CUII and allow CUII to continue to provide adequate and reliable service. *Id.* at 18. Mr. Grosvenor stated that sewer defects can lead to I&I, and I&I can increase operational costs for pumps, blowers, and other wastewater equipment, and also lead to sewer overflows, such as basement backups and manhole overflows. *Id.* Mr. Grosvenor testified that timely remediation of defects reduces the risk of sudden failures of sewer mains and manholes, which can cause sewer overflows. *Id.*

Mr. Grosvenor testified that, in 2022 and 2023, CUII plans to focus on I&I reduction one basin at a time. *Id.* at 19. He stated that CUII has already repaired all Level 4 and Level 5 defects in multiple basins, and CUII now plans to investigate and identify its worst performing basins with respect to I&I and eliminate all known defects. *Id.* Mr. Grosvenor testified that to accomplish this, each year, CUII will focus on one basin and make all repairs necessary to eliminate I&I. *Id.* Mr. Grosvenor testified that in some cases, a single basin may take longer than a year, but once the repairs are made to one basin, CUII will move to the next worst performing basin. *Id.*

Regarding cost estimates, Mr. Grosvenor testified that SCIP projects have been reoccurring, so costs from year-to-year are fairly consistent. *Id.* at 18. Mr. Grosvenor testified that the 2021 projects are largely complete, and costs include engineering for pigging the Twin Lakes Lift Station L forcemain, manhole inspections, a sewer spot repair, and manhole rehabilitation. *Id.* Mr. Grosvenor testified that the 2022 and 2023 SCIP project costs are currently estimated at a high level to include any potential sewer improvements work identified from sewer cleaning and televising, manhole inspections, and the engineer evaluation of CUII’s I&I program. *Id.* at 19. Mr. Grosvenor testified that investment in the Twin Lakes SCIP for 2021 are estimated at $197,610 ($150,663 in rebuttal) and $521,086 for each of 2022 and 2023. *Id.* at 15-16. For the WSCI system, Mr. Grosvenor testified that investment in SCIP was $26,523 in 2021 and is estimated to be $44,999 in 2022 and 2023 (2022 SCIP was forecasted at $44,879 in rebuttal).

#### OUCC’s Evidence. OUCC witness James T. Parks discussed several proposed wastewater projects at Twin Lakes. He testified that several of the projects are oversized, or are being proposed not to find and remove the excessive I&I in CUII’s collection system, but possibly to convey the excessive flows directly to the wastewater plant which will amplify peak flows imposed onto the WWTP. Pub. Exh. No. 2 at 53. Mr. Parks noted that in Cause No. 45389, the Commission denied CUII’s preapproval requests of $4,148,088 for the Collection System Improvement Program (“CSIP”) and $19,712,491 for the WWTP replacement project. The Commission found that

#### CUII should prioritize its I&I program so that we can assess the impact of the I&I removal on any need to expand its WWTP. CUII is not subject to any enforcement action by IDEM, and we find that the current capacity of its WWTP, while approaching its limits, can provide reasonable service to its customers…. CUII has made no meaningful attempt to date to achieve I&I removal as set forth in the 44742 [sic] Order. A robust I&I removal program is long overdue and could alter and help better determine the identity and scale of the improvements needed, according to Mr. Parks’ and Mr. Holden’s testimony.

#### *In re Community Utilities*, Cause No. 45389, Final Order at 15 (Ind. Util. Regul. Comm’n May 5, 2021), *aff’d on recon.,* (Ind. Util. Regul. Comm’n Jul. 14, 2021).

#### Mr. Parks testified that other than annual sewer system improvements made under the SCIP, CUII did not address I&I with any other proposed capital project in this cause except for customer lateral replacements. Parks Direct at 47.

Mr. Parks testified that CUII’s proposed Headworks project does not help locate and reduce excessive I&I entering Petitioner’s collection system, which has been a contentious issue in Petitioner’s rate cases going back thirty years *Id*. at 5. He stated peak flows are imposed on the WWTP due to excessive I&I. *Id*. at 26. He reported Petitioner’s WWTP is currently sized to treat an average daily flow of 1.1 MGD and a peak hourly flow of 3.58 MGD. *Id*. at 10. Mr. Parks repeated his testimony from Cause No. 45389 that CUII’s proposed 14.0 MGD design capacity for Headworks is too large and is a result of CUII not accounting for surcharging of the influent Parshall flume flow meter that cause overreported and inaccurate peak flows. *Id*. at 11. Mr. Parks speculated that although Petitioner has not said so, it may be installing the entire Headworks portion (Influent Junction Chamber, mechanical screens, grit removal, influent meter, and raw sewage pumps) of its WWTP replacement project (with a peak design flow of 14.0 MGD) that was the subject of the Commission’s denial in Cause No. 45389 last year. *Id*. at 16.

Mr. Parks testified that in 2007, Strand Associates recommended CUII install flow meters upstream of the WWTP (because the influent meter appears unreliable at high flows), as well as upstream of Lift Stations C, D, and L to determine the relative success of CUII’s I&I reduction program. He reported that in Cause No. 45389, CUII proposed installing flow meters and pressure gauges on force mains from Lift Stations B, C, and D. He referenced his testimony supporting these additions and recommended also installing meters and pressure gauges at Lift Stations J and L to obtain accurate flows from the two lift stations discharging at the WWTP. He agreed area velocity meters should be installed in sewers immediately upstream of the WWTP and recommended CUII add meters at known bottlenecks or basement backup areas. Mr. Parks testified that despite these recommendations by CUII, its consultants, and the OUCC, CUII has not installed lift station flow meters and pressure gauges nor meters on the influent sewers upstream of the WWTP.He testified that he still believes CUII should add the meters and pressure gauges, because they are relatively low cost, would greatly assist CUII in tracking flows, help in locating and removing areas with excessive I&I, help assess lift station and force main performance issues, and help assess the effectiveness of I&I removal efforts. *Id.* at 36-38.

Mr. Parks testified CUII should continue using its recently installed chemical phosphorous system and continue leasing office space and recommended the Commission disallow CUII’s proposed $500,000 chemical/office building project in its entirety. He testified that given the Commission’s clear direction in Cause Nos. 44724 and 45389 that CUII focus on its collection system to find and remove excessive I&I, CUII should not be pursuing lower priority capital projects such as new offices. *Id.* at 33.

Mr. Parks testified CUII does not have a Twin Lakes Sewer System Master Plan addressing Lift Station L’s force main replacement. He reported CUII indicated its Master Plan is the Asset Management Plan that has been in draft form since 2015 - but will not be updated until 2023 when CUII retains a new Project Manager. Mr. Parks noted that other than lift stations, he could not find any information in CUII’s draft AMP about CUII’s buried sewer assets such as the Lift Station L force main. *Id*. at 33-34.

Mr. Parks testified CUII completed Lift Station L and its force main in 2003 to alleviate sewer surcharging that had been causing downstream sanitary sewer overflows. He testified CUII did not remove the I&I causing the surcharging and overflows, instead choosing to pump it directly to the WWTP to bypass the gravity sewers in the problem areas. *Id*. at 35. Mr. Parks testified that foul septic odors and the need to enclose headworks structures followed CUII’s choice in the 1990s not to find and remove excessive I&I from the area near Lift Station L *Id.* at 19.

Mr. Parks testified CUII and Baxter & Woodman did not provide any documentation to support CUII’s assertion that Lift Station L and its 4.5-mile-long force main has experienced noticeable loss of capacity over the last several years. *Id*. at 45. He noted this is the first time the OUCC has heard about CUII’s claimed loss of capacity. *Id*. at 34. He also noted it appears CUII did not identify this as a hydraulic problem in prior rate cases or the preapproval case. *Id*. at 42. Mr. Parks testified that CUII may be seeking to increase Lift Station L’s capacity so that it can accommodate additional wet weather flows from the tributary area to Lift Station L or another lift station such as Lift Station C. *Id*. at 47. Mr. Parks testified CUII’s consultant RHMG recommended CUII focus on removing I&I in the Lift Station L basin and recommended against replacing the 8-inch force main segment with a 12-inch pipe or interconnecting the Lift Station C and L force mains. However, Mr. Parks stated that in this case CUII is requesting funds for the Lift Station L force main replacement and the Lift Station C generator project. He recommended the Commission disallow both projects. *Id*. at 54-56. If CUII’s intent is to pump more I&I directly to the WWTP rather than find it and remove it, Mr. Parks recommended that the Commission order CUII to follow the Commission’s clear direction from Cause No. 44724 and Cause No. 45389 to develop and execute a comprehensive I&I program to decrease the entry of water inflow and groundwater infiltration into CUII’s separate sanitary sewer system. *Id*. at 51.

Regarding CUII’s plan to focus on I&I reduction one basin at a time, Mr. Parks testified CUII did not provide testimony about which basin has the worst I&I, or why it thinks focusing on only one basin at a time is the best way to address I&I, as opposed to finding and repairing the worst I&I sources regardless of basin location. *Id.* at 53. Mr. Parks testified CUII wants to change its long-term approach for I&I removal; previously, CUII’s consultant RHMG assessed sewer and manhole defects that are I&I sources through its annual televising program and then ranked and prioritized the defects for repair. Mr. Parks stated that perhaps this change reflects CUII’s admission that its I&I program has not been successful in finding and removing I&I. He reported CUII does not have a Collection System Master Plan and that it appears CUII still does not have a comprehensive I&I program to decrease the entry of water inflow and ground water infiltration into Petitioner’s separate sanitary sewer system. *Id.* Mr. Parks testified that CUII has not provided an estimate of the total I&I volume in the Twin Lakes sewer system or taken action to determine the level of I&I in its system. *Id.* at 62.

#### OUCC witness Margaret Stull testified that the OUCC accepts CUII’s proposal for its WSCI SCIP, but does not agree with the amounts projected for its Twin Lakes SCIP.[[4]](#footnote-5) Pub. Exh. No. 1 at 31. The OUCC recommends the level of costs incurred for its 2021 Twin Lake SCIP as reasonable cost. *Id.* In other words, the OUCC recommended that CUII’s investment in wastewater main improvements be limited to $197,610 annually. See Schedule 7S, p. 1. Ms. Stull testified that CUII proposes to more than double its annual expenditures for this program and provided no substantive evidence explaining why this level of expenditure is necessary and reasonable other than the need to reduce inflow into the collections system. *Id.* Ms. Stull stated that no list of potential projects or details are provided as to which basins will be investigated first, and no cost estimates or other support were provided to justify this increase in spending. *Id.*

#### LOFS’ Evidence. LOFS witness Cleveland testified that CUII has failed to make meaningful progress toward the Commission’s directives to reduce I&I in Cause Nos. 44724 and 45389. LOFS Exh. No. 1, p. 4. Mr. Cleveland stated that he does not believe that CUII has completed a comprehensive I&I program, as directed by the Commission in the final Order in Cause. No. 44274. *Id.* at 10. He testified that CUII has yet to move beyond “plans to investigate and identify” the worst performing basins. *Id.* at 12. LOFS witness Holden testified that I&I has been an issue for decades. LOFS Exh. No. 3, p. 5. He stated that CUII lacks a coordinated effort to identify where I&I is and how to address it. *Id.* at 3. Mr. Holden testified that he does not think CUII has met the guidance provided by the Commission to address I&I and implement an effective asset management plan. *Id.*

Mr. Cleveland testified that CUII’s wastewater system is old and needs repairs or improvements, but that its current need is a result of failed maintenance and updates over time. LOFS Exh. No. 1, p. 11. Mr. Cleveland agreed with Mr. Holden’s recommendation that CUII should spend more time focusing on eliminating I&I and that it is not appropriate for ratepayers to pay for engineering and regulatory expenses relating to CUII's wastewater treatment plant for which pre-approval was denied in Cause No. 45389. *Id.*

Mr. Cleveland also submitted Attachment RC-2, which CUII provided in a data request response, which shows 61 reports of backups and overflows since January 2020. *Id.* at 13. Mr. Cleveland stated that backups and discharges remain a significant problem for LOFS residents. *Id.*; Attachment RC-2. Attachment RWH-2 of Mr. Holden’s testimony also includes CUII’s responses to LOFS Data Requests 1.01 and 1.02, in which CUII was asked to identify the actions CUII has taken to remediate inflow and infiltration since the Commission’s order in Cause No. 45389.LOFS Exh. No. 3, p. 7-8. CUII’s response to LOFS 1.01 stated that in 2021, CUII has, among other things, prepared to issue an RFP of a definitive study of I&I solutions; focused on the worst basin in the system (Basin 10) in order to identify areas in most need of repairs; and made repairs based on televising and engineer recommendations, including a main repair and replacement of the Company-owned portion of a lateral. Attachment RC-2. Mr. Holden testified that he believes CUII is only studying the I&I problems, but not actually fixing them. *Id.* at 8.

#### Petitioner’s Rebuttal. In response to the OUCC and LOFS’ criticisms of CUII’s I&I program, CUII witness Loren Grosvenor reiterated that CUII plans to focus on reducing I&I one basin at a time, by first investigating and identifying the worst performing basins with respect to I&I and eliminating all known defects. Pet. Exh. No. 3-R at 29. Mr. Grosvenor testified that once repairs are made to that basin, CUII will move to the next worst performing basin. *Id.* He stated that, in addition to the basin work, CUII will continue to correct Level 4 and Level 5 defects identified through its annual televising and inspections of sewer mains and manholes to remove I&I. *Id.*

CUII witness O’Dell testified that, in his experience, a successful and comprehensive I&I program is a multiple year or decade-long effort that systematically removes clear water from the sanitary sewer system, basin by basin, which results in less overflows, fewer backups, and eventually, lower WWTP flows. Pet. Exh. No. 10-R at 12. He testified that a typical I&I program includes a phased approach to achieve best results. *Id.* at 11. Mr. O’Dell testified that the first phase of an I&I program takes many years and includes study and analysis of the system, which includes flow monitoring, sanitary sewer televising, manhole inspections, smoke testing, dyed water testing, private lateral inspection, and private property canvassing. *Id.* at 11-12. He testified that following evaluations, the second phase includes repair and rehabilitation of the identified priority defects, which can also be a multi-year process depending on the severity and quantity of the defects. *Id.* at 12. Mr. O’Dell testified that after several significant projects are completed, the final phase is post-rehab flow monitoring to measure the effectiveness of the program, after which, the cycle is repeated in the next basin. *Id.*

Mr. O’Dell testified that CUII has focused its I&I program on assessment and corrective action and has acted on many of the typical aspects of phased I&I programs, including flow monitoring, sanitary sewers televising, manhole inspection, smoke testing, dyed water testing, private lateral inspections, and home inspections. *Id.* at 12-13. Mr. O’Dell testified that in 2018, a flow monitoring study was completed, which helps CUII target the worst I&I basins. *Id*. at 13. Mr. O’Dell testified that moving forward, CUII plans to identify and evaluate the worst performing I&I basins and eliminate cost-benefits positive defects. *Id.* at 14. He testified that CUII will focus on one basin and make necessary repairs to reduce I&I. *Id.* Mr. O’Dell testified that Baxter & Woodman has already begun the sewer basin study, and that significant rehabilitation work is expected to begin in the summer of 2022. *Id.* at 14.

Mr. O’Dell testified that CUII inspects at least 10% of the manhole structures in the system every year, and since 2013, over 25% of the manholes have been rehabilitated. *Id.* at 13. Mr. O’Dell testified that smoke testing and lateral televising were completed in 2018, and dyed water testing was completed by CUII in 2018 and 2019. *Id.* at 13. Mr. O’Dell stated that home inspections were completed by CUII between 2017 and 2019, resulting in CUII inspecting over 665 homes during that time. *Id.* Mr. O’Dell testified that CUII has continued to inspect at least 10% of the homes every year, although the program has been temporarily suspended due to COVID-19. *Id.* Mr. O’Dell also testified that since 2018, CUII has lined/rehabilitated approximately 11,300 linear feet of sanitary sewer, and where lining was not possible, CUII also completed point repairs at sewer locations. *Id.* at 13-14.

Mr. O’Dell testified that he reviewed LOFS’s response to CUII’s Data Request 1-3 in Cause No. 45389 (attached to his testimony as Attachment SO-R1). *Id.* at 14. In Attachment SO-R1, LOFS provided a description by LOFS witness Holden of a comprehensive I&I removal program, which included the following:

1. Assessment

a. Smoke testing

b. Wet weather inspections

c. Manhole inspections

d. Night flow isolation

e. CCTV inspections

f. Private home inspections

2. Corrective Action

a. Private Side

i. Sump pump removal

ii. Downspout removal

iii. Area drain removal

iv. Lateral lining/replacement

b. Public Side

i. Manhole lining

ii. Manhole casting raising/replacement

iii. Sewer lining

iv. Point repair/segment replacement

v. Sanitary sewer/cross connection elimination

Attachment SO-R1. Mr. O’Dell testified that he compared CUII’s I&I program to Mr. Holden’s description of a comprehensive I&I removal program and concluded that CUII’s program has all the components Mr. Holden specifies, with the exception of night flow inspection, which CUII has not completed due to safety and staffing concerns. *Id.*at 14-15. Mr. O’Dell testified that he believes CUII has a comprehensive I&I removal program that meets the standards identified by Mr. Holden. *Id.* Mr. O’Dell testified that CUII has been taking the proper actions to develop and implement a targeted rehabilitation program to repair defects and reduce I&I, and that CUII has taken more actions than most of the clients he works with through Baxter & Woodman. *Id.* at 16.

Mr. O’Dell also testified that a successful I&I program could reduce flow rates by 30%, but this reduction would not reduce the need for WWTP improvements, and CUII’s I&I program should not prohibit or delay capital projects from moving forward. *Id.* Mr. O’Dell testified that the most important reasons for I&I are to reduce the frequency and volume of SSOs and basement backups, and that while the reduction of peak flows at a WWTP are typically a positive externality of a successful program, I&I reduction will not reduce the operation and maintenance (“O&M”) challenges at the headworks. *Id.* Mr. O’Dell testified that capital improvements at a WWTP often go hand-in-hand with I&I removal efforts and should not be halted in this case because of I&I. *Id.* at 17. Mr. O’Dell stated that I&I can never be 100% removed from a system, and that the greatest reduction assumed is 30% from the peak hourly flow. *Id.*

As to the OUCC’s recommendation that costs of the SCIP program be disallowed, Mr. Grosvenor asserted that the adoption of the OUCC’s disallowance recommendation would prevent CUII from making real progress in reducing I&I, as CUII was directed to do in Cause Nos. 44724 and 45389. Mr. Grosvenor testified that the costs for correcting all the defects in CUII’s worst performing basin (Basin 10) is estimated at $2.5 million (exclusive of AFUDC and captime).[[5]](#footnote-6) See Attachment LG-R2. Mr. Lubertozzi testified that once all known public and private defects are repaired in Basin No. 10, CUII will assess actual costs incurred, and then, using Basin 10 as a proxy, CUII will calculate the costs to make similar improvements in all the remaining basins. Pet. Exh. No. 1-R at 19. Mr. Lubertozzi testified that CUII will then determine what is the most reasonable “least cost” approach to eliminate basement backups and SSOs. *Id.*

Mr. Grosvenor testified that CUII has made measurable progress in reducing I&I and improving its service quality overall in accordance with the Commission’s directives in CUII’s last rate case, Cause No. 44724. Pet. Exh. No. 3-R at 50. Mr. Grosvenor testified that, since 2018, CUII has filed quarterly and annual reports under Cause No. 44724 in accordance with the Commission’s Order, detailing its progress on multiple objectives. *Id*. Mr. Grosvenor provided a summary of those performance metrics filed in Cause No. 44724, as Attachment LG-R6. Mr. Grosvenor testified that the metrics show a decrease in wastewater backups in customer homes and manhole overflows. *Id.* at 51. He testified that CUII exceeded its target for percentage of manholes inspected in 2018, 2019, and 2020, and met or exceeded its target metric for cleaning and televising sewers (annually by percent) and system flushing. *Id.* He testified that the number of verified residential water discoloration complaints annually has remained low. *Id.* Mr. Grosvenor stated that the COVID-19 pandemic interrupted progress on some of its performance metrics (for example, home inspections, smoke testing residences, information meetings with residents to discuss SSO, and the Water Discoloration Mitigation Program), but on the whole, he testified that CUII has made meaningful and measurable progress in many of its objectives, as evidenced by its performance plan reports filed in Cause No. 44724. See Attachment LG-R6.

#### Commission Discussion and Findings.

##### Petitioner’s I&I Program. As the Commission has discussed in its previous orders, CUII has faced many challenges related to its I&I, specifically related to SSOs, manhole overflows, and drinking water discoloration. In CUII’s last rate case, we ordered CUII to develop and implement a comprehensive I&I program and a multi-faceted program to decrease incidences of discolored water, both focused on achieving the following goals: (a) to decrease total incidences of wastewater backups in homes, (b) to decrease total incidences of manhole overflows, and (c) to decrease total complaints of discoloration of drinking water (“Three Key Aspects”). Cause No. 44724 at 76 (Ind. Util. Reg. Comm’n Jan. 24, 2018). The Commission further required that these program plans needed to include descriptions of the activities, measurable outcomes, cost-benefit analyses, and timelines.

##### The Commission also required that “Petitioner shall propose capital investments that require Commission approvals and suggested timetables for the filings and approvals. For proposed significant capital investments, Petitioner shall provide proper documentation of engineering studies and detailed competitive bids from contractors to support Petitioner’s proposals.” *Id.* In Cause No. 45389, we did not approve the projects CUII proposed in that proceeding because CUII had not presented evidence demonstrating it had made a “meaningful attempt to date to achieve I&I removal as set forth in the 44724 Order.” Cause No. 45389, p. 13-16 (May 5, 2021).

CUII’s witnesses testified that it has taken many steps to decrease I&I, including flow monitoring, sanitary sewer televising, manhole inspection, smoke testing, dyed water testing, private lateral inspections, and home inspections. Mr. O’Dell testified that work is underway by Baxter & Woodman to address Basin 10, which has been identified as CUII’s worst performing basin in regards to I&I. We note that CUII did take action to identify improper sump pump connections and foundation drains, but while CUII often blamed customers for I&I, it is unlikely that I&I discharges were caused solely by improper customer connections.

However, the projects proposed by CUII continue to include those intended to direct excess flows to the WWTP. These plans urge the expansion of capacity to treat excess water in the system, rather than taking action to diminish it. CUII argues against the OUCC’s recommendations for flow monitors, which will objectively quantify the amount passing through various points in the CUII system.

While CUII’s stated intent to work on each basin to reduce I&I is, on its face, a practical approach, its allure is dimmed when one is forced to acknowledge that CUII at this juncture cannot accurately state which basin is the worst. The reason for this is straightforward – there are no monitors to measure flow. In the absence of measurement, it is hard to see how CUII is to systematically reduce I&I because it cannot tell where the highest I&I is coming from.

We note that CUII did take action to identify improper sump pump connections and foundation drains, but while CUII often blamed customers for I&I, it is unlikely that excess I&I discharges were caused solely by improper customer connections. We therefore order CUII to install flow monitors in all basins to determine the actual flow through each.

The OUCC recommends that CUII’s investment in wastewater main improvements in the Twin Lakes system be limited to $197,610 annually. Arguments to the contrary notwithstanding, Petitioner’s ability to effectively mitigate the impacts of I&I on its system can be handled with this amount in its rates and is *not* inconsistent with our directives in Cause No. 44724.

As noted above, CUII’s focus on one basin at a time for I&I reductions is hampered by lack of concrete evidence of which basin deserves first attention. CUII has received an engineer’s Technical Memorandum and cost for the repairs to just Basin 10 in the amount of $2.5 million (not including forecasted captime and AFUDC). In other words, the cost just to correct the known defects in Basin 10 is effectively double the estimated SCIP costs included in Petitioner’s case-in-chief—and more than three times what the OUCC proposes to limit CUII’s spending to. Since we find that CUII should first determine actual I&I flows before taking such action, we find that the OUCC’s limitation is sufficient.

As indicated above, we encourage CUII to continue its I&I remediation efforts in the future. Accordingly, we approve CUII’s proposal to include in rate base investments in the Twin Lakes SCIP for 2021 of $150,663 and $197,610 for each of 2022 and 2023. *Id.* at 15-16. We also approve inclusion in rate base of amounts up to the uncontested investment levels for SCIP in the WSCI system of $26,523 in 2021 and $44,999 for 2022 and 2023.

### **Lateral Replacements.**

#### Petitioner’s Evidence. Petitioner witness Loren Grosvenor testified that investigations have identified sewer laterals (Company-side and property owner-side) contribute to I&I in the Twin Lakes sewer system and estimates that, based on lateral televising data from inspections, approximately 10% of the sewer laterals (approximately 315 laterals) are in need of replacement. Pet. Exh. No. 3 at 22. Mr. Grosvenor testified that the average cost of replacement is $5,200, excluding engineering and other associated costs, and that total construction capital cost for lateral replacement is estimated at $2,000,000, which includes a 20% contingency. *Id.* at 23. Mr. Grosvenor stated the CUII estimated lateral replacement cost of $342,092 in 2022 and $358,967 for 2023, although lateral replacement or repair is likely going to be ongoing as the collection system ages. *Id.* Mr. Grosvenor testified that CUII started the budget for this project with a base amount for replacement and escalated it by 5% per year for anticipated inflation per the Consumer Price Index. *Id.* at 24. Mr. Grosvenor stated that CUII plans to complete as many lateral replacements as possible within the estimate for each year. *Id*; see Attachment LG-5.

Mr. Grosvenor testified that the Company’s preference would be to replace laterals on both the Company-side and property owner-side in a single construction project, as proposed in these projects. *Id*. at 23. He testified the Company believes it would be able to complete the replacements in a more cost-effective and efficient matter than requiring individual property owners to identify contractors and complete the replacements. *Id.*

#### OUCC’s Evidence. OUCC witness James Parks recommended the Commission disallow CUII’s proposed sewer lateral replacement program in its entirety, given the large number of unquantified costs, the impact on customer rates, ownership issues, and other higher CUII priorities for sewer repairs. Pub. Exh. No. 2 at 66. He discussed customer owned sewer laterals, noting customers are responsible for maintaining and replacing them. *Id.* at 57. He testified that CUII wants to replace both company and the customer sides as a single construction project and seeks Commission approval to include all costs in rate base. *Id.* at 58. He reported CUII first proposed in 2019 at the 5th Technical Conference to replace customer laterals and include the costs in rate base, but that CUII’s meeting minutes did not fully reflect the CUII, IURC, LOFS, and OUCC discussion on laterals. *Id.* at 59-60. He testified that before the 5th Technical Conference, the OUCC was unaware CUII determined customer laterals were a major I&I problem or that CUII wanted to add replacement costs to rate base. He reported there was no further funding discussion until now. *Id*. at 59.

Mr. Parks testified CUII did not provide evidence about how many of Twin Lakes’ 3,100+ home laterals it had televised, how many it found defective, or provide a list of addresses with lateral defects. Mr. Parks questioned whether CUII identified 315 defective laterals, because there is no evidence CUII knows the number of defective customer laterals and how many can be repaired or must be entirely replaced. *Id*. at 61. He provided CUII’s full response to LOFS Data Request No. 1.07 in which CUII denied proposing to include customer owned lateral replacement costs in base rates in this proceeding, despite Mr. Grosvenor’s testimony in this cause and previous CUII statements at the 5th Technical Conference. *Id*. at 61-62.

Mr. Parks testified CUII does not know how much I&I enters the Twin Lakes system, has not provided any I&I volume estimate, how much originates from customer laterals, and has not quantified any reduction in I&I since May 5, 2021. He testified CUII reported that in 2021 it issued an RFP, began to study its “worst” basin to reduce I&I, and made engineer-recommended repairs based on televising, including a main repair and replacement of the Company owned lateral. *Id*. at 62. Mr. Parks testified CUII did not say how it would track lateral replacements in removing I&I and did not provide any estimates for any costs it would incur tracking I&I removal success from replacing defective customer laterals. *Id*. Mr. Parks testified CUII has not summarized the annual SCIP costs, nor the I&I removed from its system, if any. He stated CUII did not provide information on how many customer-owned defective sewer laterals CUII identified in recent years have been repaired or replaced by customers. *Id*. at 63.

Mr. Parks testified CUII did not provide costs for actual customer lateral repairs, but noted at the 2019 Technical Conference, LOFS attorney Mr. Fitzgerald indicated quotes of $10,000 to *replace* a lateral and Mr. Grosvenor said CUII had verbal replacement quotes as high as $25,000. *Id*. Mr. Parks testified that for customers with a broken pipe section or open joint, only a lower cost spot repair may be needed but for vitreous clay pipe (VCP) with visible cracking, total replacement may be the best option. Mr. Parks testified Mr. Grosvenor’s testimony included 2019 sewer lateral replacement cost estimates (company and customer owned). He testified that CUII estimated costs at $2 million (with 20% contingency added) to replace 315 customer laterals at an average $5,200 per lateral. He noted these costs do not include televising all laterals, engineering, AFUDC and captime, which for CUII can add significantly to a project’s costs. Mr. Parks noted CUII’s $5,200 cost per lateral (construction only) from 2019 appears not to have been updated. *Id*. at 64.

Mr. Parks added he did not have confidence in CUII’s estimates, as they are most likely low based on his experience with CUII’s estimates for other projects. He noted the many unquantified project components (engineering, televising, AFUDC, and captime), the three-year-old non-updated estimates, and lack of actual contractor proposals or quotes. He testified CUII did not indicate how it will contract for the work, whether it will be awarded to one or multiple selected contractors, or whether the project will be competitively bid. *Id*.

Mr. Parks estimated the total cost to replace 315 defective customer laterals would be 50% higher (at above $3 million), increasing customers’ monthly bills by over $8. *Id*. at 65. He testified CUII did not evaluate alternatives to CUII replacing customer laterals, did not say who would own them once replaced, and presented no evidence that prioritizing customer sewer lateral replacement is the best option to remove the most I&I at the lowest cost to ratepayers. *Id*. Mr. Parks testified that homeowners with well-maintained sewer laterals should not subsidize repairs or replacements of other customers’ laterals. *Id*. at 66.

Mr. Parks testified homeowners could hire their own contractors to televise their laterals and determine whether to repair or replace them and could finance replacements with home equity loans. *Id*. at 65. He testified CUII could help educate customers about their lateral responsibilities, could offer information on hiring contractors and could recommend qualified contractors. He testified CUII’s 60-day limit to repair or replace a defective lateral is too short and depending on the severity (I&I amount or backfill entering the sewer), CUII could be more flexible in working with customers that are addressing their laterals, especially since customers must seek contractor proposals, obtain funds, sign repair contracts, and schedule the work. *Id*. at 65-66.

#### LOFS’s Evidence. LOFS witness Rick Cleveland testified that LOFS objects to the proposal to confiscate privately owned sewer laterals and recommends the Commission reject CUII’s request to recover through rates repairs and replacements of customer-owned laterals. LOFS Exh. No. 1 at 3-4. Mr. Cleveland stated that CUII’s proposal seems to suggest CUII would become the owner of the customer’s property without compensating the owner and that customer laterals would become part of CUII’s rate base. *Id.* at 14. Mr. Cleveland stated this proposal is unfair to customers that have already paid to repair or replace their own laterals. *Id.* Mr. Holden testified that funding for the project only is included for two years, and residents who do not have their laterals replaced during this time will not see a benefit from the program. LOFS Exh. No. 3, p. 13. Mr. Holden also testified that because the laterals are privately owned, CUII cannot force entry to perform the work. *Id.* Mr. Holden testified that lateral connections on private property should remain the property of homeowners. *Id.*

Mr. Cleveland testified that LOFS prefers to incentivize individual homeowners to keep their laterals in good repair by giving homeowners notice and an opportunity to make necessary repairs.LOFS Exh. No. 1 at 14. He testified that LOFS would support the placement of a lien on the property that could only be removed if the work is performed, which would ensure the customer owned lateral is repaired or replaced before the property is sold to a new owner. *Id.* Mr. Cleveland testified that LOFS is willing to notify and encourage customers to make necessary lateral repairs, at the request of CUII, which would allow residents to remain owner of their laterals. *Id.*

#### Petitioner’s Rebuttal. In response to Mr. Parks’ recommendation that the lateral replacements be disallowed, Mr. Grosvenor testified that doing so would be handcuffing CUII from dealing with I&I in upcoming years and would result in CUII not even able to attempt to find and replace laterals contributing to I&I on its system. Pet. Exh. No. 3-R, p. 25. Regarding Mr. Parks’ statement that CUII’s cost estimate is likely low, Mr. Grosvenor testified that he does not necessarily disagree with Mr. Parks, particularly for the projects to be completed in 2023. *Id.* Mr. Grosvenor provided a current quote from one of CUII’s contractors, attached as Attachment LG-R1. Mr. Grosvenor testified that if costs continue to increase, the result may be that CUII will only be able to complete the most pressing of the 315 lateral replacements but increasing prices should not be used as a basis to forego necessary work that will reduce I&I on the system. *Id.*

Mr. Grosvenor testified that CUII is not proposing to include the costs of the customer side of the lateral replacement project in rate base, and that CUII had advised Mr. Parks of his inaccuracy prior to his having filed testimony. *Id.* at 26. Mr. Grosvenor testified that, in response to LOFS Data Request No. 1.07, CUII stated, “CUII is only replacing laterals on the Company-owned side of the main.” *Id.* He testified that CUII plans to encourage customers whose laterals are in poor condition to replace them at the same time as CUII does the work on the utility-owned side because doing so will undoubtedly save the customer money on their portion of the line. *Id*. Mr. Grosvenor testified that CUII will look to work with LOFS to come up with ways to encourage customers to replace their portion of the lateral. *Id.*

Mr. Grosvenor and Mr. Lubertozzi both testified that if CUII is to reduce I&I on its system, it must reduce I&I from laterals. *Id.*; Pet. Exh. No. 1-R at 2.

Commission Discussion and Findings. While lateral replacement may indeed assist in the reduction of I&I, we find that the pure mechanics of such a program require additional refinement. CUII should explore community-based grants to assist homeowners with the cost to replace their laterals, if replacement is necessary. Alternatively, CUII could develop a plan that would allow customers to pay for lateral replacement over time, with CUII performing all the construction work. Given how high CUII’s rates have become, burdening ratepayers further is not consistent with our efforts to have CUII meet its utility obligations at a reasonable rate. Therefore, once CUII has provided a range of alternatives for customers to pay for lateral replacement – including customers hiring their own contractors – CUII may once again ask to do so. CUII may replace its own side of the lateral as part of its regular operations and maintenance of its system, which should be an on-going effort.

LOFS indicated that it was willing to seek approval from its Board to require homeowners to fix their portion of the lateral as a condition to selling their home, so long as CUII commits to notifying the customer when such repairs are necessary. We encourage CUII to work collaboratively with LOFS to notify customers and encourage customers to make necessary lateral repairs so that both the customer and CUII portion of the lateral can be replaced simultaneously.

Based on the foregoing we deny Petitioner’s proposed lateral replacement cost and the inclusion of associated costs in rate base up to the amounts set forth in Petitioner’s case-in-chief. We find Petitioner’s shall continue to make lateral replacements as part of its ongoing activities in its SCIP as a component of CUII’s I&I program. We adopt the OUCC’s reduced amount in this regard.

### **Lift Station L Forcemain.**

#### Petitioner’s Evidence. Petitioner witness Loren Grosvenor testified that replacement of the Twin Lakes Lift Station L forcemain is needed because of a hydraulic bottleneck, removal of which would increase pumping capacity of Lift Station L and allow for effective cleaning of the forcemain. Pet. Exh. No. 3 at 24. He stated that nearly all of the 22,900 LF of the forcemain is 12-inch diameter PVC pipe; however, approximately 1,101 LF is only 8-inch in diameter. *Id.* Mr. Grosvenor testified that CUII hired Baxter & Woodman to analyze the benefits of replacing the 8-inch PVC section and/or cleaning the forcemain. *Id.*; see Attachment LG-6. Mr. Grosvenor testified that, based on this analysis, CUII decided that replacing the 8-inch section of the forcemain would enable CUII to improve the pumping capacity of Lift Station L. *Id.* He also stated that removing the 8-inch section would provide CUII the ability to effectively clean (pig) the forcemain in the future. *Id.*

Mr. Grosvenor testified that improvements to Lift Station L may be necessary in the future to prevent sewer overflows, and that completing the Lift Station L forcemain replacement would improve the pumping capacity of Lift Station L at a lower cost than those possible future projects, potentially eliminating the need for or reducing the scope of those projects. *Id.* at 24.

Petitioner’s Exhibit No. 3, Attachment LG-6 includes Baxter & Woodman’s memorandum of analysis of the forcemain replacement project and includes a cost estimate of the project. Mr. Grosvenor testified that it is not anticipated that the proposed air release valves and bypass pumping included in that estimate would be necessary. *Id.* at 25. Mr. Grosvenor testified that CUII adjusted the estimated construction cost to $350,000 and will solicit bids for the construction work from qualified contractors. He testified that engineering costs are estimated to be $52,000 from Baxter & Woodman. *Id.*

#### OUCC’s Evidence. OUCC witness James Parks recommended that the requested costs for the Lift Station L Project be disallowed. Pub. Exh. No. 2 at 67. He testified that CUII did not prove a loss of capacity exists in the Lift Station L force main due to the existing 8-inch force main segment, or that there is any operational need to increase the force main capacity. *Id.* at 51.

Mr. Parks testified CUII plans to replace 1,101 feet of 8-in. force main with new 12-in. pipe matching Lift Station L force main’s predominant size to fix a hydraulic bottleneck, according to Mr. Grosvenor. Pub. Exh. No. 2 at 33 and 41. Mr. Parks testified CUII did not report this bottleneck in prior rate cases or the preapproval case. *Id*. at 42. He noted in Cause No. 44724, CUII proposed interconnecting Lift Stations C and L’s force main *before* the 8-inch segment to *route more flow through the 8-inch segment*. Mr. Parks testified CUII has not explained why a bottleneck exists now when it was not reported before. *Id*. He testified that since start-up in 2003, the Lift Station L force main has always had this hydraulic restriction from the 8-inch segment, was expressly designed to include it, and it was permitted by IDEM. *Id*. at 41. He testified that the force main can convey the Lift Stations L and K pumped flows and stated CUII presented no evidence that these two lift stations are not conveying all sewage received. *Id*. at 45.

In Table 5 of his testimony, Mr. Parks provided CUII’s responses to OUCC Data Request 5-52 about CUII’s claimed bottleneck and the following single sentence in Baxter & Woodman’s Design Memo: “Lift Station L and its 4.5-mile-long force main located in the Twin Lakes Community has shown noticeable loss of capacity over the last several years.”[[6]](#footnote-7) Emphasis added by the OUCC. Mr. Parks testified that the OUCC asked about this sentence to understand what flow problem CUII is trying to solve with the Lift Station L project. *Id*. CUII’s responses listed in Table 5 indicate there was no particular date when CUII first noticed a capacity loss, CUII has not undertaken a study to quantify the capacity loss and has not made improvements to address the loss. *Id* at 43. CUII also did not provide supporting documentation / studies on which it relied for its statement that there has been a noticeable loss of capacity but instead referred the OUCC back to the same Baxter & Woodman Memorandum. *Id*. Mr. Parks testified he could not find any evidence supporting the statement that there has been a noticeable loss of capacity. *Id*. at 45.

Mr. Parks testified this is the first the OUCC had heard about the claimed capacity loss. He noted he was aware CUII did not install means to clean force mains (known as pigging) and that in the Technical Conferences and in the preapproval case (Cause No. 45389), he discussed lack of pigging and clogged lift station pump impellers as possible contributing causes of longer pump run times. He testified CUII may have interpreted pump run times to indicate higher flows (i.e., I&I) rather than an inability to move sewage due to partially clogged pumps or force mains. *Id*. at 34-35. He testified Lift Station L was not part of the original 1960s sewers but was added in 2003, well after Lift Station L’s tributary area was built-out with homes. *Id*. at 35. He reported CUII built Lift Station L to alleviate sewer surcharging that caused overflows. He testified CUII did not remove the I&I, choosing instead to bypass around the surcharged sewers by building Lift Station L and a new force main directly to the WWTP. *Id*.

Mr. Parks testified Lift Station L was originally constructed in 2003 as a 700-gpm duplex submersible lift station to divert I&I and sewage from 548 homes to the WWTP. CUII installed new higher capacity pumps in 2017 with tested pumping capacities of 1,114 gpm (one pump operating) to 1,320 gpm (both pumps in service). Lift Station L receives wastewater from 529 homes, has standby power and pressure gauges, but no discharge flow meter to track flow rates. *Id*. at 35-36. Mr. Parks testified CUII should install flow meters at its main Lift Stations, as recommended by Strand Assoc. in 2007 and by the OUCC in 2020, including at Lift Stations J and L so that accurate flows can be obtained from the two lift stations discharging at the WWTP. *Id*. at 36-37. He stated CUII will only be able to make sound decisions on locating and prioritizing removals of I&I and in tracking the success of its I&I removal efforts if it has flow monitoring data, including flow data from its major lift stations. Mr. Parks reiterated that he still believes CUII should add the meters and pressure gauges because they are relatively low cost, would greatly assist CUII in tracking flows and locating and removing areas with excessive I&I in its collection system, and would also help assess lift station and force main performance issues and the effectiveness of I&I removal efforts. *Id*. at 38.

Mr. Parks testified Lift Station L’s force main was built as three projects from 1998 to 2003 starting with the original 8-inch segment from Lift Station K in 1998. The second segment, built before 2003, was upsized to 12-inch to serve an additional 3,620 people from future developments (never constructed) along Randolph St. The second segment runs from 117th Ave. south to 123rd Ave. and then east to the Twin Lakes WWTP. He testified no customers are connected south of the Lift Station K tie-in point and it is unlikely additional customers along Randolph St. will connect. Lift Station L and the force main’s third segment were built in 2003. This 12-inch PVC segment runs west from Lift Station L and connects to the original 8-inch segment which CUII repurposed to flow west to Randolph St. CUII ran a 12-inch PVC force main south to connect into the previously constructed second segment at 117th Ave. *Id*. at 38-39. Mr. Parks testified the force main’s total length and diameters are unclear due to reported length discrepancies from 18,252 LF to 22,900 LF and uncertainty whether 14-inch pipe was installed prior to the WWTP. *Id*. at 39-40. He testified it appears CUII does not have Record Drawings documenting actual construction and that this shows CUII has poor recordkeeping, which can cause higher planning and design costs. *Id*. at 41.

Mr. Parks testified Lift Station L’s capacity has not decreased but rather increased with the lowest capacity pump able to pump 1,144 gpm which is 59% higher than the original 700 gpm in 2003. He testified this is opposite from CUII’s assertion of a capacity loss and reflects the higher capacity and higher speed pumps installed in 2017. *Id*. at 44. He testified CUII claims to have continued declining water use and will be focusing its I&I reduction efforts on individual basins. Both will further reduce flows that need to be pumped by Lift Station L. *Id*. at 43.

Mr. Parks testified CUII’s consultant, RJN Group (“RJN”) conducted inspections and pump capacity tests at eight lift stations, including Lift Station L. *Id* at 44. He testified that CUII’s assertion of a noticeable loss of capacity is directly contradicted by the higher pumping results reported by RJN Group. *Id*. Mr. Parks testified that absent a CUII explanation for how these higher pump capacities (confirmed by RJN pumping tests) show any capacity decrease exists from the design flows, he could only conclude that Lift Station L has not suffered CUII’s asserted capacity loss. *Id*. Mr. Parks estimated the combined pumping rate from Lift Stations L and K is 1,344 gpm based on the minimum 1,144 gpm from Lift Station L and 200 gpm from Lift Station K, which is comparable to the 1,320-gpm combined pumping rate for both pumps in service at Lift Station L. *Id*. at 44-45. Mr. Parks testified CUII did not provide any supporting documentation for its capacity loss claim. *Id*. at 45. Mr. Parks testified CUII may be comparing a clean 12-inch force main’s capacity to its never cleaned 8-inch, 12-inch, and 14-inch force main. He noted sediment build-up occurs in force mains but design standards account for this by limiting friction factors used in calculations to 120 and requiring a minimum 2 feet per second cleansing velocity. *Id*. at 46.

Mr. Parks testified CUII does not say what capacity it hopes to achieve with its force main project. *Id*. at 46. He testified CUII referred to the Baxter & Woodman Memo, stating that the Report sets forth the primary drivers for replacing the Lift Station L force main. CUII did not answer *why* it needs more flow capacity than it currently has, only that its proposed capital project will increase it. *Id*. In Table 6, Mr. Parks tabulated CUII capacity estimates for the existing uncleaned force main at 800 gpm, and soft pigged at 875 gpm to CUII’s proposed configuration after hard pigging at 1,050 gpm. He noted CUII did not provide data, calculations, or assumptions it used showing how it generated the estimated flow rates which were not part of the Baxter & Woodman Memo. *Id*. at 46. Mr. Parks testified there is a wide discrepancy between the actual capacities determined by the RJN Group’s pump tests (1,144 gpm to 1,320 gpm) that are significantly above CUII’s estimated capacities. *Id* at 47. Mr. Parks testified that CUII’s request to replace part of Lift Station L’s force main might indicate CUII may be seeking to increase Lift Station L’s capacity so it can pump additional wet weather flows from tributary areas to Lift Station L or another lift station (Lift Station C). *Id*. Mr. Parks included the Commission’s statement from the Cause No. 44724 Final Order, p. 76 that it intended CUII to decrease rain and stormwater inflow and groundwater infiltration into its sewer system through development of a comprehensive inflow and infiltration program to decrease total incidences of wastewater backups and manhole overflows. *Id*. at 48.

Mr. Parks testified that in the preapproval case, Cause No. 45389, CUII proposed spending $4,148,088 for Phase One Sanitary Sewer Improvements (of three phases) but did not propose projects in the preapproval case to locate and remove excessive I&I. The collection system focus in the preapproval case was on upgrading and expanding Lift Stations B, C, and D and conveying wastewater and I&I directly to the WWTP, which CUII proposed to replace with a new higher capacity WWTP. *Id*. at 48-49. Mr. Parks reported the Commission denied preapproval because it found that CUII had made no meaningful attempt to achieve I&I removal as set forth in the 44724 Order. The Commission held that a robust I&I removal program was long overdue and could alter and help better determine the identity and scale of the improvements needed. *Id*. at 49.

Mr. Parks recommended CUII install flow meters and pressure gauges at Lift Stations L as previously recommended by CUII’s consultant, Strand Associates in 2007 and by the OUCC in 2020, noting that CUII will only be able to make sound decisions on locating and prioritizing removals of I&I and in tracking the success of its I&I removal efforts if it has flow monitoring data, including flow data from its major lift stations. *Id*.

Mr. Parks recommended CUII pig the Lift Station L force main in its present configuration (8, 12, and 14-inch pipe) with soft brushes to remove solids and lower pumping costs by decreasing friction losses. He stated that CUII could also hard pig the force main with intermediate launching and receiving pits such as from the Lift Station K tie-in point 2 miles to the WWTP. *Id*. He recommended CUII rebid the pigging contract through competitive bidding and try to attract more than a single bidder. He testified that pigging costs, sewer cleaning, and televising costs including engineering should be expensed, not capitalized and should not be included in CUII’s SCIP. Mr. Parks also testified CUII should not capitalize CUII staff time for overseeing pigging, sewer cleaning, and televising. *Id*. at 49-50.

Mr. Parks reported Mr. Grosvenor testified the $427,206 Lift Station L project began November 1, 2021, and would be completed June 30, 2022, but in discovery CUII updated the schedule with construction to end on September 29, 2022. *Id*. at 50. In discovery, CUII indicated the $427,206 cost included $350,000 for construction, $52,500 for engineering (15% of construction), combined with $18,328 in captime and $6,328 in AFUDC. *Id* at 50-51. Mr. Parks testified there appears to be project cost discrepancies because the Baxter & Woodman cost estimate was $470,000, which included a 20% contingency but no AFUDC and captime. *Id.*

Mr. Parks summarized his Lift Station L review by testifying he did not agree CUII should replace the existing 8-inch force main segment with 12-inch pipe because CUII had not met its burden of proof to show the project is needed. He stated CUII has not proven a loss of capacity even exists in Lift Station L and its force main or that there is any operational need to increase Lift Station L’s force main capacity. No new customers will be added to Lift Station L. Separate testing by another CUII consultant documented Lift Station L’s pumping capacity is: 1) higher than when it was installed in 2003; and 2) is significantly greater than the capacity estimates CUII provided to the OUCC. He testified these pump tests contradict CUII’s assertion about a loss of capacity. *Id*. at 51. Mr. Parks testified that if CUII’s intent is to pump more I&I directly to the WWTP rather than find and remove it, he recommended the Commission order CUII to follow the Commission’s clear direction from Cause No. 44724 and Cause No. 45389 to develop and execute a comprehensive I&I program to decrease the entry of water inflow and ground water infiltration into Petitioner’s separate sanitary sewer system. *Id*.

#### Petitioner’s Rebuttal. In response, CUII witness O’Dell testified that Lift Station L does have a maintenance and capacity issue due to the 8-inch bottleneck segment in Lift Station L’s force main. Pet. Exh. No. 10-R at 4. Mr. O’Dell testified that the reduction in pipe size from a 12-inch diameter pipe to an 8-inch diameter pipe restricts the flow and limits the system to pump at an 8-inch diameter capacity only. *Id.* Mr. O’Dell testified that because the force main is approximately 20 years old and has not been cleaned, there is also likely sewage build up on the walls of the pipe, which reduces capacity. *Id.* He explained that the reduction in pipe diameter in situations like this makes the force main cost prohibitive to clean, evaluate, and rehabilitate. *Id.* Mr. O’Dell stated that once the bottleneck is removed, the Lift Station Pigging Project can proceed, which will extend the useful life of the force main, pumps, and pumping station. *Id.*

In response to Mr. Parks’ recommendation to install flow meters to monitor lift station flow, Mr. O’Dell testified that flow meters are not typically installed at lift stations with the capacity of Lift Station L and doing so would be extremely costly ($50,000+) for the proposed benefit. *Id.* at 5. Mr. O’Dell testified that CUII has a good understanding of its existing flow rates and capacities at Lift Station L, and additional flow metering data would not change the recommendation to remove the 8-inch bottleneck. *Id.*

In response to Mr. Parks’ testimony that CUII lacked record drawings, Mr. O’Dell testified that the information CUII provided Baxter & Woodman was adequate and typical. *Id.* He testified that although record drawings can provide guidance, they do not significantly reduce engineering costs or change orders costs, and a detailed and thorough topographic survey is more important than detailed record drawings. *Id.* at 6.

Mr. O’Dell testified that the fact that the flow bottleneck has existed since 2003 does not impact the analysis of the bottleneck issue, but rather demonstrates the forcemain has been incapable of receiving proper cleaning or inspection since it was installed. *Id.* Mr. O’Dell testified that CUII is attempting to remedy this operational challenge with the proposed forcemain project and that further delaying the project would only serve to exacerbate the issues CUII is currently facing. *Id.*

Mr. O’Dell testified that Mr. Parks’ testimony that the pumping capacity of Lift Station has increased and that CUII has under-estimated the flow capacity is not correct and not relevant to the proposed project. *Id.* at 7. Mr. O’Dell testified that the pumps were improved in 2003 and 2017, but since those dates, capacity has not increased. *Id.* Mr. O’Dell testified that capacity may increase when the bottleneck is removed and the forcemain is cleaned, but the primary purpose of removing the bottleneck is not to address the capacity issue, but to allow for the ability to properly maintain the existing forcemain in an attempt to maximize its useful life. *Id.* Mr. O’Dell testified that the exact flow capacity of the force main has no bearing on the need for the force main to be cleaned and inspected. *Id.*

Regarding the estimated project cost, Mr. O’Dell stated that the estimated project cost is $427, 206, (which is $438,848 in rebuttal, see Attachment AD-R01) which is based on a $379,950 bid received on May 11, 2022, plus a 5% contingency for the project, plus construction engineering. *Id.* at 9. Mr. O’Dell testified that the project is needed to clean and optimize the operation of Lift Station L, and replacement of the 8-inch pipe will allow for proper maintenance and provide maximum capacity to the system, while lengthening the service life of the pumps and force main. *Id.* 10.

#### Commission Discussion and Findings. CUII argues that the Lift Station L forcemain replacement would improve the pumping capacity of Lift Station L and extend its useful life by permitting CUII to clean the force main, pumps, and pumping station. To support this position however, there would have to be evidence of a reduction in capacity at Lift Station L, and CUII has produced no such evidence. While Mr. O’Dell testified on cross-examination that soft pigging is not recommended for an aged forcemain such as the one at issue here, if we were to accept CUII’s proposal to replace the 8” main with a 12” section, it has asserted its intention to subsequently hard pig the same line. CUII’s proposal thus suffers from both a lack of evidence and contradictory assertions. The OUCC’s proposal to require installation of flow meters will actually determine whether a bottleneck exists, and we find that CUII should implement this step. Petitioner’s proposed $438,848 associated with the Lift Station L forcemain is therefore denied for inclusion in rate base.

### **Lift Station C Generator.**

#### Petitioner’s Evidence. Petitioner witness Loren Grosvenor testified that the community has requested that CUII remove the existing trailer-mounted generator at Twin Lakes Lift Station C and replace it with a more attractive, permanent generator. Pet. Exh. No. 3 at 22. Mr. Grosvenor testified that the current trailer-mounted generator is located in an area visible to many homes and the golf course. *Id.* Mr. Grosvenor stated that CUII will move the trailer-mounted generator to another location or keep it on stand-by for emergency deployment elsewhere in the system. *Id.*

Mr. Grosvenor stated the estimated cost of the permanent Lift Station C generator is $107,742 ($110,475 in rebuttal), which includes $20,000 estimated for engineering (evaluation and design), $45,000 for generator procurement, and $40,000 for installation. *Id.* The project is anticipated to begin November 1, 2022. *Id.* at 15.

#### OUCC’s Evidence. OUCC witness James Parks noted Mr. Grosvenor did not list Lift Stations C and L interconnect projects in his testimony, but he indicated the engineering phase of the Lift Station C generator project will evaluate tying Lift Station C into the Lift Station L force main. Pub. Exh. 2 at 52. Mr. Parks testified that when the OUCC asked why CUII needs additional capacity in the Lift Station L force main, CUII responded “in addition to the bases cited in the Memorandum, CUII is evaluating the feasibility of connecting the Lift Station C force main into the Lift Station L force main, in which case it would be necessary for the Lift Station L force main to have additional capacity.” *Id*.

Mr. Parks testified that it appears even though CUII does not officially have an interconnect project, it is pursuing two precursor capital projects (Lift Station L force main replacement and Lift Station C generator), both of which support a future project to tie in the Lift Station C force main to the Lift Station L force main. He testified neither project locates and removes excessive I&I causing sewer surcharging, and both projects aim to divert excessive I&I flows and sanitary sewage directly to the WWTP, where the force main discharge will amplify the peak flow imposed on the WWTP. *Id*. at 52-53. Mr. Parks testified CUII does not describe the quantity of I&I in the Lift Stations C and L tributary areas and does not provide any insight into CUII’s near or long-term plans to find and remove the I&I around Lift Stations C and L. *Id*. He testified Mr. Grosvenor describes CUII’s plans to focus on I&I reduction in CUII’s worst performing basin each year with respect to I&I and eliminate all known defects. *Id*.

Mr. Parks testified CUII already designed the Lift Station C and L interconnect in 2016 as part of the SCIP but did not build it. *Id* at 54. He testified the project included replacing the four pumps in Lift Stations C and L, adding variable frequency drives (“VFDs”), adding a flow metering and valve vault, interconnecting the 6-inch Lift Station C force main with the 12-inch Lift Station L force main, adding a pig launching station at Lift Station C, electrical and controls upgrades and replacing Lift Station C’s portable generator with a new permanent generator. *Id*.

Mr. Parks testified that the main problems causing CUII to abandon interconnecting the two lift station force mains were that Strand Associates projected Lift Station L flows may need to be increased to 1,500 gpm and possibly to a peak hourly flow of as much as 2,680 gpm and CUII consultant RHMG indicated that “[c]apacity in the Lift Station L forcemain would be best reserved for any future upgrades in pumping capacity needed for Lift station L.” Mr. Parks testified RHMG also reported on discussions with CUII about replacing the 8-inch segment of Lift Station L's force main, stating that upsizing the 8-inch forcemain: 1) would *not* sufficiently alleviate pumping head restrictions *with Lift Stations L, C and K* connected to the forcemain, 2) calculated Lift Station L pumping heads would be 450 ft. TDH at 1,500 gpm, 3) pumps are not manufactured in this range, and 4) the existing forcemain is not designed for these high pressures. *Id*. at 54-56. Mr. Parks testified CUII should continue to focus on I&I reduction in the Lift Station L tributary basin, but I&I reduction may be insufficient to entirely eliminate a need to upgrade Lift Station L. *Id*. at 56. Mr. Parks summarized the disconnect between CUII consultant recommendations and CUII’s proposed projects, stating that CUII’s consultants recommended CUII focus on removing I&I in the Lift Station L basin and against replacing the 8-inch force main segment with a 12-inch pipe or interconnecting the lift station force mains. Yet in this case, CUII is requesting funds for the Lift Station L force main replacement and the Lift Station C generator project. Mr. Parks recommended the Commission disallow both projects. *Id*.

Mr. Parks testified CUII included a new permanent generator in the proposed Lift Station C upgrade in Cause No. 45389, but the pump design conditions (flow and discharge pressure) changed for the Lift Station C pumps because CUII no longer proposed to interconnect Lift Station C’s force main with Lift Station L’s force main. *Id*. at 56. In the preapproval case, he recommended the Commission deny CUII’s proposed replacement of Lift Stations B, C, and D and installation of new force mains as the project was premature because CUII had not fully developed and implemented a comprehensive I&I program to actually remove any excessive I&I in the sewers tributary to Lift Stations B, C, and D. *Id*. at 56-57. Mr. Parks recommended the Commission disallow both the Lift Station L force main replacement and the Lift Station C Generator projects because both projects are unneeded and CUII has failed to show why they are necessary. *Id.* at 57. For the issue of aesthetics pertaining to the Lift Station C portable generator, which was installed in late 2015 or early 2016, Mr. Parks recommended CUII provide a fence with shrubs or plant shrubs as a visual barrier to minimize the public’s view. *Id.*

#### Petitioner’s Rebuttal. Mr. Grosvenor responded to the OUCC’s recommendation to continue to operate the portable generator at Lift Station C and enclose it with a fence and shrubs by testifying that this would be continuing to use a temporary solution to a permanent problem. Pet. Exh. No. 3-R, p. 30. Mr. Grosvenor also reiterated that the Lift Station C generator is located in an area visible to many homes and the golf course and the request for replacement of the trailer mounted generator has come from the community. *Id.* at 31. Mr. Grosvenor additionally testified that replacing the portable generator at Lift Station C will provide CUII with operational flexibility and a resolution to safety concerns associated with the portable generator. *Id.*

Commission Discussion and Findings. The proposed permanent generator’s cost was not contested, but the OUCC recommended that CUII continue to operate the temporary generator and surround it with shrubs. CUII’s temporary generator has served it capably and presents no risk to operations or customers. No evidence was supplied to show why a perfectly functional generator should be replaced. We accept the OUCC’s recommendation to install shrubbery, which should address community concerns that it is unsightly. The OUCC’s recommendation would only delay the resolution of the foregoing issues and perpetuate the safety concerns identified by CUII. Accordingly, we find that the project is reasonable and necessary and that the cost of the project should be included in rate base.

### **Other Capitalized Costs.**

#### OUCC’s Evidence. OUCC witness Stull asserts Petitioner capitalized $157,225 of expenditures that should have been recorded as operating expenses during the period incurred, including expenditures for a lift station study; a boundary survey; jetting, televising, and smoke testing sewer mains; vehicle registrations, and rain barrels. She recommended excluding these costs from Petitioner’s wastewater system rate base. Moreover, Ms. Stull added that none of the excluded expenditures occurred during the base period and, therefore, no operating expense should be added to test year operating expense. Pub. Exh. No. 1 at 29-30; OUCC Attachment MAS-2.

#### Petitioner’s Rebuttal. In rebuttal, Mr. Dickson agreed to the removal of costs for a 2018 lift station study and a 2018 improvement plan, totaling $10,672, with an associated adjustment to accumulated depreciation of $694. However, Mr. Dickson objected to the removal of items that are deferred maintenance (originally recorded as CWIP in CUII’s old accounting system, and then reclassified to deferred maintenance). He explained that these CWIP balances are not a component of utility plant in service, therefore no adjustment to wastewater rate base is needed. In addition, Mr. Dickson explained that the expenses for the WWTP Boundary Survey need not be removed because those expenses were previously reclassified to a Basin Study project. The allocation of vehicle registrations to wastewater have also been previously removed from utility plant in service, as discussed in the water section regarding other capitalized costs. Finally, Mr. Dickson disagreed with the OUCC’s removal of capitalized rain barrel costs because CUII identified rain barrels as a cost-effective method to address I&I, and rain barrels were made available to the LOFS community. Pet. Exh. No. 4-R at 16-17; *see* Attachment AD-R-02.

#### Commission Discussion and Findings. Regarding the deferred maintenance items booked as CWIP, we find these costs are not included in utility plant in service and therefore no adjustments to wastewater rate base are needed. Additionally, we find that the reclassification of the WWTP Boundary Survey costs also results in no need to make adjustments to wastewater rate base.

## Regarding the removal of vehicle registration costs, we find that Petitioner’s water rate base need not be adjusted to reflect the vehicle registrations because Petitioner’s reclassification effectively removed these items from its water rate base.

## Regarding the rain barrels Petitioner made available to the LOFS community, we note that no evidence has been presented regarding their use as a cost-effective method to address I&I. We also note that these rain barrels were provided to the LOFS community, so Petitioner no longer owns them. Therefore, it is inappropriate to capitalize the costs of these rain barrels and include in Petitioner’s wastewater rate base. To the extent the costs of these barrels should be considered a means of addressing I&I, they should be recorded as an operating expense in the period expended.

## As the parties have agreed to the removal of costs associated with a 2018 lift station study and a 2018 improvement plan, we find it reasonable to remove $10,672 from Petitioner’s wastewater utility plant in service, with an associated adjustment to accumulated depreciation of $694.

## **Headworks/Chemical Building.**

### Petitioner’s Evidence. Petitioner witness Loren Grosvenor testified to the need for the new Headworks building, stating that the headworks hydraulic capacity is inadequate and leads to surcharges in the collection system. Pet. Exh. No. 3 at 26. He testified that basement backups in customers’ houses have been observed due to inadequate headworks capacity, and that to prevent rags and other debris from fouling the facilities, an automated mechanical headworks is needed. *Id.* Mr. Grosvenor testified that rags and other debris can clog or damage pipes, pumps, rotors, and other WWTP equipment. *Id.* Mr. Grosvenor testified that automated mechanical headworks are typical of other facilities of similar size, and that an automated screen removes the need for manual raking by operators and reduces the potential for screen blinding during peak flow events. *Id.* Mr. Grosvenor testified that, with automated mechanical screens, housing the headworks indoors is necessary to protect the screens’ moving parts and water lines from freezing, and will also extent the useful life of the equipment. *Id.* Mr. Grosvenor testified that the headworks will also house the electrical and controls equipment for the headworks, as well as ancillary equipment such as the automated sampler, with additional ventilation and electrical safety requirements. *Id.* at 26-27.

Mr. Grosvenor testified that the proposed Operations Building will serve several functions, including offices and storage for the phosphorous treatment chemicals and equipment, with the intention of reducing construction costs by using common-wall construction and sharing plumbing, HVAC, and electrical. *Id.* at 27. Mr. Grosvenor testified that the offices are proposed to replace the office space the Company currently rents, which includes three offices and a conference room that can seat eight people. *Id.*

Mr. Grosvenor testified that the phosphorous treatment equipment is necessary because of Indiana Department of Environmental Management (“IDEM”) requirements for chemical treatment for phosphorus removal. *Id.* He stated that the equipment is currently maintained in CUII’s garage pursuant to a temporary IDEM permit, so there is an urgency to having a new building constructed for the equipment. *Id.* at 27-28.

Mr. Grosvenor testified in his direct testimony that the cost CUII is proposing in rate base is $2,296,298. *Id.* at 16. He testified that the estimates for the Headworks were based on the engineering estimates for those projects as provided in Cause No. 45389 and in Quarterly Reports filed in Cause No. 44724. *Id.* at 28. He testified that the total cost for the Headworks building includes: (i) the estimated cost of the facility at a 90% opinion of the probable cost multiplied by an inflation factor of 1.2; (ii) an additional 10% for engineering cost; and (iii) IDC and Cap Time costs. *Id.* Mr. Grosvenor testified that Baxter & Woodman provided the high-level estimate for the Chemical/Office Building at $500,000 ($4,232,735 in rebuttal for the combined project). *Id.* Mr. Grosvenor testified that only the costs included in rate base will be costs actually expended to construct the Headworks. *Id.*

### OUCC’s Evidence. OUCC witness James Parks recommended the Commission disallow CUII’s proposed Headworks project in its entirety because it is far less expensive to reinstall a comminutor as used at Twin Lakes for over 40 years until 2013. Pub. Exh. No. 2 at 29, 20. Mr. Parks testified CUII proposes to construct a new Headworks at Twin Lakes WWTP for $2,296,298, He noted the project would not help locate and reduce excessive I&I entering CUII’s collection system that has been a contentious issue in CUII’s rate cases for thirty years. *Id*. at 5. He testified CUII has not justified the project need or provided adequate information and support to show it is the best option for ratepayers. Mr. Parks testified CUII has not supported its estimate, has not identified alternatives, or performed a life cycle cost analysis comparing its planned project to any alternative, and CUII may be unable to complete the project by the end of the Future Test Year, September 30, 2023. *Id.* at 5-6.

Mr. Parks stated that for plant investments such as Headworks, CUII should provide detailed project descriptions, the basis or need for them, and estimates with support for charges (material quantities, major equipment, non-construction costs, AFUDC, cap time, contingencies, etc.), broken out in sufficient detail to allow an auditor adequate information to verify the project’s reasonableness. He stated that rather than just assert a need exists, CUII should provide evidence supporting its claim that a project is needed. *Id*. at 5-6.

Mr. Parks testified CUII provided a one paragraph general description of the Headworks project in its Case-in-Chief testimony without detailing all components it seeks to build and did not identify flow capacities. *Id* at 6. He noted in the 2020 preapproval case, Cause No. 45389, CUII proposed replacing the existing WWTP with a new WWTP estimated to cost $19,712,491. *Id*. at 9. In the preapproval case, CUII proposed two Headworks screens at 7.0 MGD each; in this Cause, CUII had not provided the number of proposed screens and grit removal tanks or their capacities, but in discovery, CUII stated “[t]he Headworks facility will be designed for a peak flow of 14 MGD.” *Id* at 6. Mr. Parks testified that in discovery, CUII reported the Headworks project is similar but not the exact same project designed and permitted in Cause No. 45389 and the cost is based on the Cause No. 45389 estimate. Mr. Parks testified CUII failed to explain the project and should also have a cost estimate for the actual project it will be installing. *Id*. at 7.

Mr. Parks testified the OUCC sought information on design flows, components, and design status but Petitioner reported in discovery “[t]he project has not been designed as of yet” and permitting has not started. *Id*. at 7-8. Mr. Parks stated it is unknown if CUII has hired an engineer or whether design is underway. He testified knowing the design status assists in assessing whether the project could be permitted, bid, and completed by the end of the Future Test Year, September 30, 2023. *Id*. at 8. He also noted a tight schedule to meet the Rate Base cutoff can drive-up costs to expedite work as seen for the South Ground Storage Tank project in Cause No. 44724. *Id*.

Mr. Parks criticized CUII’s lack of project information submitted with its Case-in-Chief, stating CUII should be able to describe all major components because it has already *fully designed and fully permitted* Headworks improvements twice before in 2016 (Cause No. 44724) and again in 2020 (Cause No. 45389). *Id*. Mr. Parks testified it is unreasonable to incur $200,000 more for engineering based on 10% of the construction cost for a third design because CUII could use the two previous permitted designs (plans and specifications) as the starting point. *Id*. at 9.

Mr. Parks testified WWTP capacity was an issue in Cause No. 45389 when CUII sought preapproval to build a higher capacity 1.6 MGD replacement WWTP that was 45% larger than the existing 1.1 MGD plant even though CUII expected little customer growth over the next twenty years and claimed continued declining water use. He reported the Commission denied CUII’s preapproval request and found “CUII should prioritize its I&I program so that we can assess the impact of the I&I removal on any need to expand its WWTP.” *Id*. at 9-10. He testified CUII proposed installing two automated mechanical screens for flows up to 14.0 MGD (both screens in service) without grit removal but the construction permit also included one vortex grit remover sized for 14.0 MGD. *Id*. at 10-11. Mr. Parks testified the 14.0 MGD peak flow capacity is too large because Parshall Flume surcharging produces flow meter inaccuracies causing overreported and inaccurate peak flows. He testified it appears that CUII has not accounted for these erroneous peak flows and may be designing for excessively high flows. *Id*. at 11. Mr. Parks testified in the Cause No. 45342 water improvements preapproval case that CUII’s water sold declined 30% over 20 years from 731,400 gallons per day (“gpd”) (0.73 MGD) in 2001 to an average of 508,852 gpd (0.51 MGD) over the 2014-2018 period. *Id*. He testified, however, that Twin Lakes effluent flows have not declined between 2012 and 2021 averaging 0.91 MGD. *Id*.

Mr. Parks testified Headworks project components / design flows changed from 2016 and estimated costs more than doubled from $1,072,503 in Cause No. 44724 to $2,296,298 in this cause. He testified CUII did not provide any cost details in its Case-in-Chief or how it arrived at this cost. In response to OUCC discovery, CUII stated the total cost included: (i) the estimated facility cost at a 90% opinion of the probable cost multiplied by an inflation factor of 1.2, (ii) an additional 10% for engineering; and (iii) IDC and Cap Time costs. *Id*. at 12-13. He testified CUII’s $2,296,298 estimate and project details are unsupported. Mr. Parks reported that in response to further OUCC discovery, CUII indicated $1,683,000 of construction costs, $336,600 for inflation, $200,000 for engineering, and $75,000 for cap time and IDC. *Id*. at 13.

Mr. Parks testified he did not have confidence in CUII’s unsupported cost estimate. He testified it was probably low due to missing items such as site work, piping, the influent junction chamber ($113,000), and the grit collector ($791,000). *Id*. at 14-15. He reported CUII’s response to OUCC Data Request 5-55 (b) confirmed the estimate is missing the grit collector. In response to follow-up OUCC Data Request 9-2 about capacities, CUII indicated the headworks have been designed for 14 MGD with pumps designed for 6.6 MGD above which “storm mode” is activated, and gravity flow is moved to the excess flow tanks. Mr. Parks testified that although not stated in its Case-in-Chief, CUII may be installing the entire Headworks portion of its WWTP replacement project (influent junction chamber, mechanical screens, grit removal, influent meter, and raw sewage pumps) with a 14 MGD peak design flow that was denied preapproval in Cause No. 45389. *Id*. at 16. Mr. Parks testified CUII’s 2016 permitted design included grit removal and in 2020 a vortex grit removal unit was designed and permitted but CUII indicated it would not be initially constructed because CUII identified grit was not enough of a concern to justify the costs. *Id*.

Mr. Parks testified he calculated the Headworks cost for likely components, except a pump station, using Baxter & Woodman’s 2020 costs from the 90% Opinion of Probable Cost updated to 2023, would be $4,000,000. *Id*. at 16-17. He testified CUII proposed an automatic mechanical screen in a new building with electrical / control systems and ventilation to mitigate corrosive sewer gases. He noted CUII’s project description did not list a grit removal system and it is unclear if there would be more than one automated screen. *Id*.

Mr. Parks testified the Twin Lakes WWTP previously had two bar racks and a comminutor but has never had automated mechanical screens. Mr. Parks explained a comminutor, also known as a grinder, shreds rather than removes solids to prevent clogged or damaged downstream pipes and equipment while minimizing floating solids. He noted comminutors are typically used at smaller WWTPs (under 1.0 MGD) such as Twin Lakes. *Id*. at 18. Mr. Parks reported CUII replaced the comminutor with a new grinder sometime in 1997-1998 and again in 2006 at a cost of $19,044. He reported the comminutor failed and CUII removed it in July 2013 and has relied since then on the original manually cleaned bar rack with removals limited to larger debris. *Id*. at 18-21.

Mr. Parks testified CUII had to enclose the Comminutor Structure to contain foul septic odors generated during long wastewater detention times in Lift Station L’s force main. *Id*. at 19-20. He testified that rather than find and remove excessive I&I, Petitioner diverted wastewater directly to the WWTP bypassing areas with sanitary sewer overflows (“SSOs”) and back-ups. *Id*. Mr. Parks testified the shortest force main route would have been 1.8 miles on Lake Holiday’s east side, but CUII instead chose a 4.3-mile route on the west side along Randolph St. to 123rd Ave. and then east to the WWTP. He testified CUII upsized the force main to accommodate future development and reported to IDEM in 2003 that Lift Station L eliminated the SSOs. *Id*. at 19. He testified CUII failed to recognize the negative consequences of conveying wastewater in a long force main - primarily odors, solids deposition and corrosion of downstream structures. *Id*. at 20.

Mr. Parks testified comminutors (shredders) have been allowed and bar screens have also been required at WWTPs per wastewater design standards since at least 1951. *Id*. at 21-22. He testified CUII’s statement that it chose to rely only on a bar screen since 2013 to capture screenable materials does not make sense because it appears CUII claims shredded debris/screenings reconstituting outweighs the far greater and more likely downstream plugging caused by larger, unshredded debris passing through the bar screen. Mr. Parks stated his engineering opinion is that the comminutor’s benefit is that *it shreds and passes smaller pieces through the comminutor,* thereby preventing comminutor blinding, sewage back-ups and downstream plugging caused by large pieces of debris. He testified CUII’s logic to choose a bar screen only, versus repairing or replacing the failed comminutor, runs contrary to a comminutor’s advantages. *Id*. at 21-22.

Mr. Parks testified that IDEM still permits comminutors notwithstanding CUII’s claim that shredded debris reconstitutes downstream. He reported American Suburban Utilities’ (“ASU”) 3.0 MGD Carriage Estates WWTP has dual 4,600 gpm (6.6 MGD) comminutors (also known as macerators) that were installed within the last several years and cost approximately $30,000 each. He testified comminutors are readily available, lower cost treatment equipment. *Id*. at 23. IDEM also renewed Twin Lakes WWTP’s NPDES permit in 2018 listing CUII’s comminutor and bar screen. *Id*. Mr. Parks reported IDEM notified CUII in December 2021 that CUII’s removal of its comminutor was a problem and either CUII could reinstall the comminutor or modify the NPDES permit to remove it. *Id*. He testified CUII informed IDEM it would be modifying its NPDES permit to remove the comminutor and install a second bar screen. *Id*.

To justify its proposed $2,296,298 Headworks project, Mr. Parks testified CUII claimed the “headworks hydraulic capacity is inadequate and leads to surcharging of the collection system. Basement backups in customers’ houses have been observed due to inadequate headworks capacity.” *Id*. at 24. Mr. Parks testified CUII did not provide any evidence in its Case-in-Chief Testimony that the Headworks cause basement backups or SSOs. He reported not one of the listed back-ups or SSOs listed in Attachment LG-1, SSO Summary in Mr. Grosvenor Case-in-Chief Testimony were attributed to inadequate headworks hydraulic capacity. Mr. Parks reported the OUCC followed up by asking CUII to support its statement and to state the dates when basement back-ups or SSOs occurred that CUII asserts were caused by bar screen blinding or by capacity issues. *Id*. Mr. Parks provided CUII’s response:

CUII cannot definitively say that blinding of the manually cleaned bar screens has itself directly caused basement back-ups, but it does, at a minimum, contribute to them. The blinding of the manual bar screens creates sewers to be surcharged in the gravity collection system. As a result, CUII has seen basement back-ups just upstream of the headworks on the gravity collection system. Moreover, to prevent blinding CUII personnel must be ready to manually clean the bar screens any time adverse weather is predicted. A list of basement back-ups and SSOs was provided in response to Data Request No. 4.11.

Mr. Parks testified none of the reasons for basement back-ups or SSOs listed in CUII’s response to OUCC DR 4-11 included inadequate headworks hydraulic capacity, blinding of the bar screen or blinding of the comminutor (pre-July 2013). *Id*. at 25.

Mr. Parks testified that in Cause No. 44724 he recommended the Commission disallow the 2016 Headworks project because CUII had not justified project need nor supported the costs. He recommended CUII properly develop and evaluate alternatives for phosphorus removal, sludge storage, and headworks improvements and recommended the Commission order CUII to conduct a life cycle analysis of alternatives to determine the lowest cost option. *Id*. at 25. He testified CUII has not identified alternatives to the Headworks project and did not perform a life cycle cost benefit analysis noting that Indiana Code Ch. 13-18-26 now requires permit applicants to certify that a life cycle cost-benefit analysis, as described in I.C. § 13-18-26-3 has been prepared and completed for new facilities and/or facility expansions with a design capacity above 0.10 MGD. *Id*.

Mr. Parks reported that in the Cause No. 45389 preapproval he opposed the 14.0 MGD *capacity* of the WWTP project because of influent meter errors, but supported adding screening and grit removal, along with chemical phosphorus removal. *Id*. at 26. Mr. Parks testified the phosphorus system, which cost $50,000, is installed and can permanently stay in the CUII garage. *Id*. at 31. In Cause No. 45389, Mr. Parks noted the WWTP screening issues, lack of grit removal, excessive I&I peak flows imposed on the plant, and limited size internal piping prone to clogging that coupled with hydraulic limitations of existing structures, causes WWTP flow bottlenecks. He testified internal piping clogs are more likely without the comminutor in service due to larger unshredded debris entering the WWTP. *Id*. at 26.

Mr. Parks recommended the Commission disallow the Headworks project because CUII has again: (a) not adequately described what it plans to construct; (b) not identified capacities; (c) failed to justify the projects’ need; (d) not supported its estimated costs; and (e) not identified alternatives or performed a life cycle cost benefit analysis. More importantly, he recommended the Commission disallow the Headworks project because reinstalling a comminutor is a far less costly alternative to build and operate that addresses screenings and prevents potential hydraulic back-ups at the WWTP. *Id*. at 26. He testified the rate impact from a new headworks, based on CUII’s estimated $2,296,298 capital cost and $40,000 per year for operations and maintenance (“O&M”) (power, operator labor, grit disposal, screenings disposal, etc.) would be approximately $7.25 per month or $86.50 per year. Mr. Parks testified that for the $4,000,000 capital cost he calculated (with grit removal and an influent junction chamber) and an assumed $60,000 for O&M, the customer impact would rise to $12.00 per month or $148 per year. *Id*.

Mr. Parks testified CUII should return to operating as done prior to 2013 by installing a replacement comminutor with a bar screen in the bypass channel per the original design. Based on a $30,000 comminutor cost, he estimated the total capital cost including all electrical and controls would be under $50,000 with $10,000 annual operating costs. He noted routine equipment checks for any bar screen or comminutor blinding are still needed and that shredded screenings would be land applied with sludge for no separate disposal charge. He estimated the comminutor alternative would cost ratepayers $0.40 per month or $4.65 per year. *Id*. at 27-28. He testified CUII’s proposed Headworks project’s $2,296,298 cost is over forty times more costly than the $50,000 comminutor alternative and four times more costly to operate. He testified enough savings are generated that CUII could replace the comminutor every year and still be far below the rate impact of the Headworks project. He stated if sewer gas corrosion caused the comminutor failure in 2013, CUII should evaluate minimizing the gas within the Comminutor Structure enclosure. *Id*. at 27-28.

### Mr. Parks testified that from examining photos included in CUII’s responses to OUCC DRs 10-3 and 10-4, it appears CUII mainly has a clogged bar screen problem it seeks to solve with a high cost, unneeded capital project. He testified that for four decades, the comminutor effectively shredded screenable materials and reported he could not find any record prior to 2015 indicating comminutor issues other than periodic replacement. He testified the lowest cost option in 2013 and now is to replace the comminutor, but CUII chose to rely on its bar screen which CUII staff must manually clean. He testified the O&M problem appears to be CUII does not keep it cleaned. He referenced the fully clogged bar screen photo (OUCC DR 10-3) showing how high the sewage reached on the bar screen. He testified that with restored comminution, such blinding would be prevented because solids are ground up and flow passes through the comminutor. *Id*. at 27-28. Mr. Parks testified that WWTP flow bottlenecks due to undersized internal piping between the Flow Splitter Structure and Package Plant that CUII currently overcomes with portable trash pumps would remain whether CUII installs the more expensive mechanical screen or reinstalls the comminutor. He testified that CUII can best address this issue by removing excessive I&I from its collection system and by enlarging the piping to the Package Plant. *Id*. at 29.

Mr. Parks testified CUII in its request to build a new Chemical / Office Building at the Twin Lakes WWTP did not provide any details in its case-in-chief about the building, such as the square footage, number of stories, or support for its estimated $500,000 building cost. He stated CUII referred to the Baxter & Woodman design and estimate in the Cause No. 45389 preapproval case, but he noted in that cause, the Operations Building cost estimate was $1,549,900 (including 10% contingency), not the $500,000 requested in this case. He stated CUII proposes to replace its currently rented office space of three offices and a conference room. Pub. Exh. No. 2 at 29.

Mr. Parks testified Mr. Grosvenor did not explain the costs but referred to Baxter & Woodman’s high-level $500,000 estimate and noted CUII’s rate model used an incorrect $273,000 projection that CUII would correct in rebuttal. Mr. Parks testified that in Cause No. 43128, CUII requested new offices at the Twin Lakes WWTP to be built in 2007 for $325,000 that were not built. *Id*. CUII instead leased offices whose rent is now $1,353 per month. *Id*. Mr. Parks reported CUII testified it urgently needs a new chemical/office building for phosphorus equipment currently housed in CUII’s garage under a *temporary IDEM permit*. Mr. Grosvenor testified he believes having this chemical equipment in the garage will be problematic in the future. *Id*.

Mr. Parks disagreed having phosphorus equipment in CUII’s garage is problematic. *Id*. at 31. He testified the equipment (that CUII reported cost $50,000) consisting of portable alum “tote” tanks and metering pumps can permanently stay in the garage. *Id*. Mr. Parks also testified IDEM did not issue a temporary permit. He stated Mr. Grosvenor is mistaken that CUII’s construction permit somehow limits CUII to only temporary storage and use of alum from the garage. Mr. Parks explained IDEM permitted a system Baxter & Woodman labeled as temporary until CUII installs a biological phosphorus system and noted biological phosphorus was part of the replacement WWTP project denied preapproval by the Commission. *Id*. Mr. Parks also noted IDEM requires back-up chemical phosphorus removal even if CUII changes to a biological system. *Id*. at 32.

Mr. Parks testified he disagrees alum storage and metering equipment in CUII’s garage poses an unacceptable operator hazard. He stated operators need to know proper handling of any chemical whether it be chlorine bleach for disinfection or alum commonly used in water and wastewater treatment and in making pickles. CUII’s permitted design included the required combination emergency shower and eyewash station to address any exposure. *Id*. at 32. Mr. Parks testified that based on CUII’s estimated $500,000 capital cost and an allowance of $10,000 per year for utilities, power, and building maintenance, he estimated customers’ monthly sewer bills would rise by approximately $1.60 or $19 per year. *Id*. He also testified CUII overreports Future Test Year alum usage at 2,500 gallons per month which is 45% higher than the actual 1,725 gallons per month average usage calculated from alum usage data reported to IDEM. *Id*. at 33.

Mr. Parks recommended the Commission disallow the chemical / office building project in its entirety. He testified CUII can use its existing chemical phosphorus system in CUII’s garage and that CUII should continue leasing its offices. He stated that given the Commission’s clear direction in Cause Nos. 44724 and 45389 that CUII focus on its collection system to find and remove excessive I&I, CUII should not be pursuing lower priority capital projects such as new offices. *Id*.

### LOFS Evidence. LOFS witness Rick Cleveland stated that LOFS does not support CUII’s request for increased rates to fund any of the sewer projects proposed in this proceeding. LOFS Exh. No. 1 at 10. He testified that CUII has not provided enough certainty for its proposed Headworks project to allow for LOFS’ engineers to adequately evaluate the proposed costs. *Id.* Mr. Cleveland stated that CUII has relied on an outdated cost estimate for the Headworks project from a previous cause and testified that CUII itself stated in a discovery request that the final design of the Headworks has not been completed. *Id.* at 10-11. Mr. Cleveland testified that CUII’s wastewater system is old and needs repairs, but that CUII should have performed the necessary maintenance and updates from the beginning, which would result in not having to spend as much money now. *Id.* at 11. LOFS witness Robert Holden testified that the project is over-engineered for a system of this size and modern advances in screening design have resulted in unreasonable costs. LOFS Exh. No. 3 at 16. He testified that facilities of similar size are typically designed without a redundant automated screen and without automated influent gates. *Id.* at 9-10. Mr. Cleveland and Mr. Holden recommended the Commission deny CUII’s request to recover the $2.3 million Headworks project.

Mr. Holden testified that the costs of the administration/chemical building should be denied. LOFS Exh. No. 3 at 16. Mr. Holden testified that a combined Chemical and Office Building creates safety concerns regarding the housing of chemical in the same space as CUII employees and is an impractical design that leads to increased costs. *Id.* at 11. He testified that if he had designed the building, he would not have included administrative staff and chemical storage within the same building plan, both due to practical and safety concerns. *Id.* He recommends that CUII have separate structures, which will likely result in a safer and more cost-effective solution for CUII. *Id.* at 11-12.

### Petitioner’s Rebuttal. Petitioner witness Amanda Streicher testified that, in response to the feedback and safety concerns raised by the OUCC and LOFS regarding a combined Chemical and Office Building, CUII is proposing a new proposed design-build of a Headworks/Chemical Building without the originally proposed office space. A detailed list of Headworks/Chemical Building design components are included in Attachment AS-R1. Ms. Streicher testified that the proposed Chemical/Office Building was a project carried over from Petitioner’s WWTP Expansion Project proposed in Cause No. 45389, and that Baxter & Woodman was repurposing the design for that facility as this proceeding was ongoing. Pet. Exh. No. 9-R at 4-5. She testified that the decision was made, partially in response to the testimony of the other parties in this case, to remove the office space from the Design-Build proposal. *Id.* Ms. Streicher testified that this approach addresses the two most pressing needs, as suggested by Mr. Holden: (i) creating a separate space for chemical storage; and (ii) completing the long overdue Headworks project. *Id.* Ms. Streicher stated that although the need for the office spaces still exists, the priority is the Headworks and the Chemical Building. *Id.* She testified that the final structure includes a Headworks/Chemical Building combined in a single structure with an associated electrical room. *Id.* Mr. Grosvenor testified that the new facility is expected to be placed in service before September 2023. Pet. Exh. No. 3-R at 4.

Ms. Streicher testified that the chemical portion of the building will house a single relocated chemical storage tote with containment suitable for receiving/storing alum (aluminum sulfate) to remove phosphorous from the process water. Pet. Exh. No. 9-R at 6. She testified that a 250-gallon storage tote would provide 10 days of storage, which is the minimum amount of chemical that should be on-site to ensure adequate supply between deliveries. *Id.* Ms. Streicher testified that the existing pump skid will be relocated to the proposed structure, and that the existing eyewash/emergency shower and tempered water blending system will be relocated from the garage to the proposed structure. *Id.* She stated that HVAC is necessary to protect equipment from freeze potential, and to help control humidity and maintain appropriate working conditions, and that all these are included in the proposed design. Ms. Streicher stated that the design addresses the concerns of Mr. Holden by eliminating interconnection between spaces. *Id.*

Ms. Streicher testified that she disagrees with Mr. Parks’ assertion that the garage could be a permanent solution for chemical storage. *Id.* at 14. She stated the garage was used as a temporary solution as CUII was required to provide plans and specifications for a chemical phosphorus removal system under its NPDES permit by August 1, 2019, with system operation complete by June 1, 2021. *Id.* Ms. Streicher testified that she designed the current space with a temporary permit, and that a permanent facility was intended with the WWTP expansion project denied in Cause No. 45389. *Id.*; Transcript G-47, lines 9-11. Ms. Streicher testified that installation of the chemical feed system in the garage significantly reduces the capacity for storage and additional uses for the garage space, causing maintenance and operations equipment to be stored outside, reducing life expectancy and increasing maintenance costs on the equipment. Pet. Exh. No. 9-R, p. 14. Ms. Streicher testified that, since the expansion project did not move forward, a more permanent solution is necessary for the chemical storage so that CUII can use its garage facilities as intended. Tr. at G-48, lines 9-12.

Ms. Streicher testified that she agrees with the testimony of Mr. Holden, who testifies to the health concerns of human contact or proximity to alum.Pet. Exh. No. 9-R at 15. She attached a material safety data sheet for aluminum sulfates in liquid form as Attachment AS-R3, which directs seeking medical attention if any exposure or contact has occurred. Ms. Streicher testified that that storage recommendations from the supplier CUII uses for its alum suggest keeping the material in a dry, cool, and well-ventilated place, and away from other materials, which is not the current condition of the chemical stored in the garage. *Id.* at 16. Ms. Streicher testified that she does not agree that IDEM would allow CUII to permanently store chemicals in its garage. *Id.* at 16.

Regarding the Headworks portion of the facility, Petitioner witness Carl Fischer testified that the revised design includes two mechanical screens each rated for 7.0 MGD, two new screenings washer/compactors; modification of the existing 7.0 mgd manually cleaned screen; an electrical room; chemical feed room; and Parshall Flume flow meter. Pet. Exh. No. 8-R at 7-8. He testified that the new mechanically-cleaned screens will continuously remove large solids from the wastewater entering the WWTP, and each of the two mechanically-cleaned screens will automatically lift captured solids and discharge them into a motor-driven washer/compactor. *Id.* at 8. He testified that the washer/compactors will separate the small organic material from the large inorganic solids, and that about 95% of the organic material will be washed-out and returned to the influent wastewater for treatment in the downstream processes. Mr. Fischer testified that the large solids will be compacted and discharged into receptacles, which will be hauled to a landfill for final disposal. *Id.* He testified that with the current design, the influent gates will be automated so that only one of the two mechanically-cleaned screens would receive flow until a second screen is needed, which is designed that way to keep the offline screen clean and reduce its wear and tear. *Id.* at 38. Mr. Fischer testified that when the influent flow increases above the 7 mgd capacity of one screen, the other screen would be online, increasing capacity to the full 14 mgd peak hourly flow. Mr. Fischer testified that the manually-cleaned screens will only be used when one of the two new mechanically-cleaned screens is out of service. *Id.* at 8.

Mr. Fischer testified that the existing screen has a capacity of 7 mgd, and this is undersized because the predicted peak hourly flow is estimated to be about 14 mgd. *Id.* at 36. The new Headworks is designed to treat 14 mgd peak hourly flow, and that a second screen is necessary to provide redundancy in case one screen goes down. *Id.* at 37. Mr. Fischer testified that the 14.0 mgd design peak hourly capacity is appropriate, based on analyses done by other engineers retained by CUII. *Id.* at 12. Mr. Fischer described the engineers’ analyses and testified that it is prudent to size the Headworks for worst case conditions, for which 14.0 mgd would be appropriate. *Id.* at 14. In response to Mr. Holden’s concern that the Headworks will be over-engineered for a system of its size, Mr. Fischer testified that the design has been repurposed to save money, and the grit collector and grit washer are not going to be included; he testified that the revised plan will be appropriate for a plant of its size. *Id.* at 39.

Regarding Mr. Parks’ statement about declining water usage, Mr. Fischer testified that customer growth, or the lack thereof, does not appreciably affect the size of the Headworks because the Headworks must be sized for the peak hourly flow, not the average daily flow. *Id.* at 14. He testified that the number of customers and their water usage determine the average daily flow, but have little effect on the peak hourly flow, which is more a result of I&I. *Id.* Mr. Fischer also testified that Mr. Parks is incorrect in stating that the design may be based on flow meter inaccuracies as the design is not based on flow meter measurements. *Id.* at 18.

Petitioner witness Loren Grosvenor testified to the importance of a headworks at a wastewater treatment plant because of its role in removing or reducing debris and grit from the effluent coming into the treatment plant. Pet. Exh. No. 3-R at 3. Mr. Grosvenor testified that for headworks that do not have automatic screens, the screen must be continuously manually cleaned or “raked,” otherwise they become clogged or blinded, which leads to surcharging and ultimately, SSOs or basement backups. *Id.* Mr. Grosvenor testified that when a blinded screen is cleaned, surcharges at the WWTP can occur due to a sudden rush of wastewater. *Id.* Mr. Grosvenor stated that automatic screens, conversely, allow a continuous and uniform flow into the treatment process. *Id.* Mr. Grosvenor described the operational difference between an automated bar screen as compared to a manual screen, which he describes as “night and day.” *Id.* at 4. Mr. Grosvenor’s testimony included pictures of the current Headworks facility, and he testified to the substantial risk staff are exposed to during storm events when bar screens are most likely to become plugged. *Id.* at 5-6. Mr. Grosvenor testified that automated bar screens not only make cleaning easier, but they also improve the flow conditions at the wastewater treatment plant and are more efficient, safer, and less prone to result in surcharge events. *Id.*

Mr. Fischer testified that the large solids in wastewater, including rags, tampons, condoms, so-called “flushable” wipes, and other solid materials, can plug and interfere with the treatment process. Pet. Exh. No. 8-R, p. 4. Mr. Fischer testified that a large portion of these solids settle in the sewer pipes and will be transported to the WWTP during the initial surge in wastewater flow that happens at the beginning of a rainstorm, also known as the “First Flush.” *Id.* Mr. Fischer testified that if these large solids are not removed initially when they enter the WWTP, they can cause havoc on the treatment system by plugging pipes, pumps, and nozzles; accumulating on submerged cables, guide rails, and motors; and take up space that is needed for treatment in tanks. *Id.* Mr. Fischer testified that the plugged material must be manually removed by CUII personnel, which is a significant health risk because of the risk of coming into contact with bacteria-laden raw sewage and sludge. *Id.* at 5. Mr. Grosvenor testified that the plugs in CUII’s system can be as large or larger than a desk and referred to them as “fatbergs.” Tr. at C-34, lines 3-14.

Mr. Fischer testified that Mr. Parks’ statement that bar screens have minimal maintenance issues and require only periodic ranking is a gross understatement of the maintenance required to ensure that manual bar screens are kept in good working order. Pet. Exh. No. 8-R at 22. Mr. Fischer stated that as flushable materials become more prevalent, manual screens require continuous maintenance, and without continuous maintenance, as a manually-cleaned screen collects large solids, it starts to plug. *Id.* at 22. Mr. Fischer testified that the plug causes upstream water to rise, which exerts higher pressure on the screen, which results in pushing the solids through the screen, thereby defeating the purpose of the screen. *Id.* at 22-23. Mr. Grosvenor testified that historically, smaller plants have been able to rely on manual bar screens to catch debris, but over the last 10-15 years, there has been a significant increase in disposable wipes in the waste stream, which increases the amount of cleaning needed for the screens to not become blinded. *Id.* at 16.

In response to Mr. Parks’ testimony that the Twin Lakes WWTP has never had automated mechanical screens, Mr. Grosvenor testified that fact does not mean the utility should forever operate as it has in the past. *Id.* at 15. He testified manual screens require manual cleaning, particularly during rain and storm events. *Id.* Mr. Grosvenor testified this means CUII must have personnel on standby during such events to clean the screens, which has contributed to CUII experiencing a large amount of turnover due to such tasks that requires employees to work excessive hours in dangerous conditions. *Id.* Mr. Grosvenor testified that manual raking is a safety concern, particularly when operators have to go out alone at night during rain events, and without an upgrade, he is concerned that about the risk that could lead to an injury of one of the operators. *Id.* at 22.

Regarding Mr. Parks’ recommendation that CUII purchase a comminutor rather than build a new Headworks, Mr. Fischer testified that the wastewater treatment industry has been moving steadily toward better screening, particularly as the industry transitions to more complex nutrient removal processes and can no longer rely on cheap labor to deal with the plugging and other problems. *Id.* at 24. Mr. Fischer testified that the WWTP in Twin Lakes is permitted with capacity at 1.1 mgd, so Mr. Parks’ testimony that the comminutors are typically used at smaller WWTPs (less than 1.0 mgd) like Twin Lakes is incorrect. *Id.* at 25. Mr. Fischer testified that the use of comminutors at treatment facilities is not common anymore because in many cases, comminutors simply do not work. *Id.* at 27. Mr. Fischer stated that even when the comminutor is cutting up rags and other solids, the cut-up solids still cause problems downstream by agglomerating and re-weaving themselves. *Id.* at 27. Mr. Fischer testified that in his 40+ years of experience, he and his counterpart wastewater treatment engineers do not use comminutors in headworks designs. *Id.* He testified that he recommends screens that remove the material so that solids do not cause any problems in downstream treatment processes. *Id.* at 27-28. Mr. Fischer testified that he did not agree with Mr. Parks’ recommendation to re-install a comminutor and that doing so would be poor engineering practice. *Id.* at 28, 34.

Mr. Grosvenor testified that, as Mr. Parks recommended, CUII is using the existing design drawings from previous cases, and that Baxter & Woodman were working on a redesign of the project after its denial in Cause No. 45389. *Id.* at 10. Mr. Grosvenor testified that the redesign was completed contemporaneously with this case, and the redesigned plant is similar to the Headworks proposed in Cause No. 44724 and Cause No. 45389.

Ms. Streicher testified that the cost of the combined Headworks/Chemical Building under a Design-Build project delivery method was $4,031,300 (exclusive of captime and AFUDC), which is higher than the combined estimates presented in CUII’s case-in-chief (Headworks ($2.3 million) and Chemical Building ($500,000)), but consistent with Mr. Parks’ estimate for a headwork alone. Pet. Exh. No. 9-R at 5. In response to Mr. Parks statement that CUII’s original estimate was missing components such as site work, site piping, the Influent Junction Chamber, and the Grit Collector, Ms. Streicher testified that the Grit Collector was able to be eliminated, but CUII did include an Influent Junction Chamber and other improvements, including: a new Influent Junction Chamber for constructability and by-pass considerations; a new Flow Splitter Structure with capacity for a future 4th Train to be used as high flow event bypass to the Package Plant; an increase to the pipe diameter to the Package Plant; the addition of a Parshall Flume and additional piping; and multiple injection points for alum and the associated site work and heat tracing and insulation. *Id.* at 9. Ms. Streicher testified that these additional structures, combined with the extreme increase in the cost of construction over the past several years, increased the overall cost of the Headworks/Chemical Building. *Id.* Ms. Streicher agreed with Mr. Parks’ 20% inflation factor, and he testified that the current inflation rate averages to about 1% per month of inflation. Tr. G-46, line 6. She testified that the Building Cost Index identified an annual inflation rate for 2022 of 15.3%, and recent article have shown an 8.5% inflation rate for the Construction Cost Indices in 2022, which averages to 11.9% for 2022. Pet. Exh. No. 9-R at 10. Ms. Streicher testified that inflation rates are expected to continue to rise, and construction costs are anticipated to continue to get more expensive for the next several years. *Id.* Ms. Streicher testified that the project delivery method recommended is Design-Build, which is more advantageous than bidding a large, combined project for a variety of reasons that she describes. *Id.* at 12.Ms. Streicher testified that the current Headworks/Chemical Building price is being held firm until September 25, 2022. *Id.*

Mr. Grosvenor testified that, while there is no way to attribute a particular SSO or basement backup to the surcharges at the Headworks system directly, it is his opinion that backups at the Headworks have been a contributing factor.Pet. Exh. No. 3-R at 17-18. Mr. Grosvenor stated that CUII does not have staffing on site to rake the screens continuously on the weekends, and if there is a large rain event, the manual screens can become blinded during off hours, leading to surcharges and backups, which inevitably leads to SSOs and likely basement backups, even though the Headworks may not have been identified as the direct cause of the issue. *Id.* at 18. Mr. Grosvenor testified that this situation will continue without automatic screens. *Id.*

Mr. Grosvenor disagreed with Mr. Parks’ criticism that CUII has not justified the need for the Headworks project—he stated that a new Headworks has been consistently identified as a crucial need going back at least two cases before the Commission and was discussed at length in both of those cases. *Id.* at 6. Mr. Grosvenor testified that in Cause No. 45389, LOFS witness Holden agreed that the Headworks improvements is a “pressing need.” *Id.* at 8. Mr. Fischer testified that the Headworks is a crucial component of the system and should not be neglected, and that CUII’s current Headworks facility is beyond its useful life without upgrades and has insufficient capacity.Pet. Exh. No. 8-R at 25.

Ms. Streicher testified that, unlike what Mr. Parks suggests, the Headworks/Chemical Building should not be considered a lower priority project because of the hazards identified, and separating maintenance activities and storage of heavy machinery/equipment should be an immediate priority.Pet. Exh. No. 9-R at 17*.* Ms. Streicher testified that CUII’s I&I improvement projects are unrelated and do not negate the need for the Headworks/Chemical Building. *Id.* Mr. Grosvenor testified that the need for the Headworks continues to grow—the current Headworks hydraulic capacity continues to be inadequate, leading to surcharging, basement backups, and SSOs, and rags and debris continue to plague the treatment process, causing blockages and unnecessary wear on pumps and mechanical components. Pet. Exh. No. 3-R, p. 11. He testified that no matter how much I&I is reduced, without the new Headworks, there will be continual blinding of manual screens, blockages, pump wear, and loss of capacity in the tanks with the build-up of rags that should have been removed through proper screening. *Id.* at 17-18. Mr. Grosvenor testified that the pressing need for the Headworks is why CUII has continued to press forward with continuing the project. *Id.* at 11.

### Commission Discussion and Findings. CUII proposed two WWTP improvement projects in its case-in-chief: 1) the $2,296,298 Headworks project and 2) the $500,000 Chemical Building/Office Building project. CUII reported the headworks project is needed because of inadequate hydraulic capacity and an automated mechanical headworks will prevent fouling of the facility from rags and debris. Both LOFS and the OUCC faulted CUII for not providing adequate project details and cost support in its case-in-chief.[[7]](#footnote-8) Proof that CUII failed to provide adequate cost support is clearly demonstrated by CUII’s revised $4,232,735 cost estimate for the Headworks / Chemical Building that CUII submitted in Rebuttal, which is $1,436,437, or over 50% higher than initially proposed.

In rebuttal case, CUII had deleted the offices and sought to remedy its project details and cost support by offering a May 25, 2022 Baxter & Woodman Boller Design Build proposal to construct a combined Headworks/ Chemical Building at a higher $4,031,300 price that will be held until September 25, 2022, after which it is subject to change.[[8]](#footnote-9) The Design Build proposal lists the project components.

In rebuttal, CUII indicated the total project cost for the combined project would be $4,232,735 including forecasted captime and AFUDC.[[9]](#footnote-10) However, Mr. Lubertozzi stated CUII has only included in its rebuttal position the amount estimated in CUII’s direct case of $2,296,298 for the headworks project and $527,559 for the chemical building, which includes AFUDC and capitalized time. Mr. Lubertozzi indicated CUII will seek recovery of costs above the $2,823,857 in a future Commission proceeding.

Under the Design Build proposal, the chemical room of the Headworks building will house one 250-gallon chemical storage tote with containment, relocated pump skid, relocated tempered water system, relocated eyewash / emergency shower, and HVAC. Headworks will consist of two motorized operated influent gates, two mechanical screens each rated for 7 MGD, rehabilitation of CUII’s existing manually raked bar screen structure rated for 7 MGD, two washer compactors, relocated odor control, relocated influent sampler, Parshall Flume influent meter, and miscellaneous system components for electrical, controls, and wash water.[[10]](#footnote-11)

CUII proposes to expand headworks capacity from the existing 3.58 MGD to 14.0 MGD, the same peak capacity CUII sought in the Cause No. 45389 preapproval case. We agree with the OUCC that Petitioner appears to be installing the entire Headworks portion of its WWTP replacement project for a peak design flow of 14.0 MGD, the same project that we denied preapproval in Cause No. 45389. We denied preapproval in part because the OUCC presented credible evidence that issues exist with CUII’s Parshall flume influent flow meter that could directly affect the size of WWTP expansion (if any) that CUII needs, and we gave weight to that evidence. In the present cause, the OUCC again opposed the 14.0 MGD peak capacity as too large due to the same influent flow meter inaccuracies causing overreported and inaccurate flow data. There is a lack of evidence showing that CUII evaluated and corrected the influent flow meter issues so that its design flows are based on credible flow data since we issued the Final Order in Cause No. 45389 on May 5, 2021. In the absence of those actions, we agree that a Headworks designed for 14.0 MGD is oversized.

In denying preapproval we also found that CUII had made no meaningful attempt to achieve I&I removal in its collection system as set forth in the 44724 Order. We held that a robust I&I removal program was long overdue and could alter and help better determine the identity and scale of improvements needed at the WWTP. Due to the lack of evidence in the record in this cause quantifying how much I&I CUII has successfully located and removed from its collection system since 2021, if any, we decline to approve Petitioner’s proposed Headworks project. We found in Cause No. 45389 that the evidence of record established that CUII’s existing WWTP capacity was sufficient to serve CUII’s existing and potential future customers and did not support CUII’s request to expand the WWTP’s capacity, including Headworks. Thus, even ignoring I&I considerations, CUII has not demonstrated a need to expand the Headworks to 14.0 MGD.

Finally, the OUCC faulted CUII for not identifying any alternatives to its preferred Headworks project and not performing a life cycle cost benefit analysis as required under I.C. ch. 13-18-26. The OUCC presented a much lower cost alternative to CUII’s proposed $2,296,298 Headworks project (now estimated at $4,232,735 for the combined Headworks / Chemical Building Design Build project). This alternative was to reinstall a comminutor, also known as a grinder, at an estimated cost of $50,000 as originally designed and operated by CUII for over 40 years. The OUCC presented credible evidence that the comminutor option cost is 40 times less than CUII’s original estimate and one fourth the cost to operate and maintain. We note that the comminutor option is nearly 85 times less expensive than CUII’s Design Build proposal.

Mr. Grosvenor acknowledged that “the comminutor is essentially a set of grinding wheels that grind any papers, plastics, solids, and allows everything along with that trash to *pass through* into the aeration process.” Hrg. Tr. at C-34. OUCC witness Mr. Parks testified that this is the benefit of a comminutor - to grind up solids so they *pass through* the comminutor along with the wastewater instead of causing blinding that would back up flows. Mr. Fischer opined that “the ground up particles recombine using fats, oils, and greases as the cement, essentially, and they create long stringy rags and fatbergs.” Hrg. Tr. at G-6. Mr. Grosvenor testified that “[d]ue to the mixing of aeration, it binds those solids back together creating what we call rag balls the size of this desk.” Hrg. Tr. at C-34.

In rebuttal and at the evidentiary hearing, both Mr. Fischer and Mr. Grosvenor advocated for CUII’s preferred $4,232,735 headworks project with automatic mechanical screens over reinstalling a comminutor. We point out that CUII has operated for over nine years without a comminutor, relying solely on a manually cleaned bar screen that is only periodically cleaned. The photographs included in Mr. Grosvenor’s rebuttal show large rags and wipes on a blinded and partially cleaned bar screen (pp. 5 and 17) or were collected (p. 16). None of these photos are of ground up solids, fatbergs, or rag balls floating on the aeration tanks as described by Mr. Fischer and Mr. Grosvenor. It is concerning to us that CUII has avoided the proven use of a comminutor to automatically grind up solids and keep flow moving into the WWTP in favor of a worse performing bar screen. The bar screen requires frequent operator attention but still results in routine blinding that backs up sewage flow, or results in pass-through of large rags, mop strings and debris that are far more likely to plug downstream processes and piping.

We note that the problem of recombining ground up solids was not mentioned in Cause No. 44724 as reason for removing the comminutor. Rather CUII reported it removed the comminutor in 2013 because it had failed. Mr. Parks testified that CUII replaced the comminutor in 1997-1998 and again in 2006 at a cost of $19,044. Mr. Parks testified that wastewater design standards allow comminutors and bar screens for preliminary treatment and have done so since at least 1951. He noted IDEM issues permits for comminutors and referenced the dual 6.6 MGD comminutors American Suburban Utilities recently installed at the Carriage Estates WWTP at a cost of $30,000 each. We find Petitioner’s authorized rate base additions for Phase II shall be increased by $60,000 to allow for the installation of two comminutors.

Regarding the phosphorus removal system, we are unpersuaded that the chemical storage and metering systems need to be relocated from the CUII garage where they were recently installed. CUII should explore options as suggested by the OUCC during the Evidentiary Hearing to install a wall isolating the office and bathroom from the chemical area with a second entrance into the office area.

Based on the evidence of record and for the reasons discussed above, we disallow CUII’s proposed combination Headworks / Chemical Building.

## **Working** **Capital**.

A for-profit utility is allowed the opportunity to earn a return on its investment in working capital -- that is the capital it devotes to the running of its operations. Petitioner calculated its working capital investment using the FERC 45-day methodology. Pet. Exh. No. 4, Attachment AD-3, wp-i. OUCC Witness Margaret Stull accepted Petitioner’s use of the FERC 45-day method, but she disagreed with Petitioner’s inclusion of certain expenses in its working capital calculation—specifically, she disagreed with Petitioner seeking to earn a return on its purchased power expense, purchased water expense, property taxes and the public utility fee. Pub. Exh. No. 1 at 25. Ms. Stull explained that these expenses are either paid at the same time or after Petitioner has received revenues from its customers for the utility service provided (i.e., in arrears). She noted that property taxes, in particular, are paid up to two years in arrears. Ms. Stull indicated that these exclusions from the calculation of working capital have been approved by the Commission in earlier CUII rate cases, including Cause No. 44724. Id. In rebuttal, Petitioner Witness Dickson agreed with the OUCC’s removal of purchased power, purchased water, property taxes, and the public utility fee from the calculation of working capital. Pet. Exh. No. 4-R at 15. We agree the items the OUCC identified should be removed from the calculation of Petitioner’s working capital. Therefore, we find Petitioner’s forecasted working capital for purposes of establishing rate base, is as follows:



## **Original Cost of Petitioner’s Rate Base.**

Based on the evidence presented in this case, and the findings discussed above, we find that the net original cost of Petitioner’s water utility rate base used and useful for the benefit of the public is forecasted to be $14,127,639 at September 30, 2022, and $15,009,853 at September 30, 2023, as detailed below. We find that the net original cost of Petitioner’s wastewater utility rate base used and useful for the benefit of the public is forecasted to be $7,599,715 at September 30, 2022, and $7,582,325 at September 30, 2023, as detailed below. Note that Petitioner proposed, and no party disputed, that its net original cost rate base should be used as the fair value of its rate base in this case. Accordingly, for purposes of this case, we find that the original cost of Petitioner’s rate base is its fair value.





# **Capital Structure and Rate of Return.**

## **Capital Structure.**

Petitioner’s proposed capital structure for ratemaking purposes is 49.2% debt and 50.8% equity. Mr. Lubertozzi explained that this capital structure is based on Petitioner’s parent company’s actual capital structure as of September 30, 2021 and asserted it is a reasonable capital structure for a utility. Pet. Exh. No. 1 at 22. While no party opposed Community’s application of its proposed capital structure, the OUCC recommended refined numbers out to four decimal places – 49.2028% debt and 50.7972% equity. We find this capital structure to be reasonable and appropriate for setting rates in this case.

## **Cost of Debt.**

Petitioner’s proposed cost of debt for ratemaking purposes is 5.01%. Mr. Lubertozzi explained that this cost of debt is based on Petitioner’s parent company’s actual cost of long-term debt as of September 30, 2021. Pet. Exh. No. 1 at 22; *see* Petitioner’s workpaper wp-h. While no party opposed Petitioner’s proposed cost of debt, the OUCC proposed a refined number out to four decimal places – 5.00505%. We find this cost of debt to be reasonable and appropriate for setting rates in this case.

## **Cost of Equity.**

# With respect to the cost of common equity to be used to calculate Petitioner’s Weighted Average Cost of Capital, Mr. Lubertozzi testified Petitioner and the OUCC mutually agreed to a return on equity of 9.50% in this case. Pet. Exh. No. 1 at 21; *see* Attachment SML-3. LOFS was not a party to this agreement, but it did not object to or contest the agreement. *Id*.

# With respect to the agreed upon 9.50% ROE, Mr. Lubertozzi testified that a review of recent authorized returns on equity in other utility cases supports the view that a 9.50% ROE is within a reasonable range of returns on equity for a utility such as Community. *Id*. For example, he noted that Regulatory Research Associates recently reported that from January through September 2021, electric distribution-only utility authorized ROEs averaged 9.51%; natural gas utility authorized ROEs averaged 9.54%; and water utility authorized ROEs averaged 9.40%. *See* Attachment SML-4. Further, a recent Indiana natural gas utility rate case order authorized a 9.80% ROE (*see* Final Order in Cause No. 45468 (IURC Nov. 17, 2021)); and two recent water utility rate case orders reflected authorized returns on equity of 9.80%. *See* Final Orders in Cause Nos. 45416-U (IURC Feb. 17, 2021) and 45142 (IURC June 26, 2019). Pet. Exh. No. 1 at 22-23.

# The OUCC and Petitioner agreed to a return on equity of 9.5%, and no party opposed a return on equity of 9.50% for Petitioner in this case. We find this return on equity to be reasonable and appropriate for setting rates in this case.

## **Fair Rate of Return.**

We find that the following represents a reasonable capital structure, cost of capital, weighted average cost of capital, and a fair rate of return for CUII in this case:

|  |  |  |  |
| --- | --- | --- | --- |
| **Description** | **Percent** | **Cost** | **WACC** |
| Long Term Debt | 49.2028% | 5.00505% | 2.46262% |
| Common Equity | 50.7972% | 9.50000% | 4.82574% |
|  | 100.0000% |  | 7.28836% |

# **Operating Revenues.**

# Base year revenues through September 30, 2021, were $2,588,803 for consolidated water and $2,516,751 for consolidated wastewater. Both CUII and LOFS proposed various *pro forma* adjustments to revenues associated with declining consumption and customer growth. Neither the OUCC nor intervenor LOFS took issue with Petitioner’s general sales forecast methodology, its bill count normalization adjustment, or its miscellaneous revenues. We find these adjustments agreed to by the parties to be reasonable. The remaining disagreements, which are associated with Declining Consumption and Customer Growth, are discussed below.

## **Declining Consumption Adjustment.**

### **[ Discussion intentionally omitted by the OUCC ]**

## **Customer Growth Adjustment.**

### **[ Discussion intentionally omitted by the OUCC ]**

## *Pro Forma* Present Rate Operating Revenues. Based on the above, the Commission finds Petitioner’s *pro forma* operating revenues at present rates for the 12 months ended September 30, 2022 (Phase I) are $5,196,866, of which $2,629,569 is water and $2,567,297 is wastewater. Petitioner’s *pro forma* operating revenues at present rates for the 12 months ended September 30, 2023 (Phase II) are $6,396,129, of which $3,647,704 is water and $2,748,425 is wastewater.

# **Operating Expenses.**

# Base year operating expenses through September 30, 2021, were $2,380,241 for consolidated water operations and $1,699,180 for consolidated wastewater operations. Petitioner proposed operating expenses through September 30, 2022 (Phase I) of $2,656,646 (water) and $2,398,430 (wastewater). Petitioner proposed operating expenses through September 30, 2023 (Phase II) of $2,675,215 (water) and $2,458,302 (wastewater).

# Several of Petitioner’s proposed O&M expenses were either not challenged by the parties, or Petitioner accepted the OUCC’s or LOFS’ proposed adjustments in rebuttal. We find the following adjustments agreed to by the parties to be reasonable.

# 

# After the rebuttal phase and the evidentiary hearing held in this case, it appears that the following operating expense items are in dispute: (1) payroll and benefits expense; (2) capitalized labor, (3) purchased water expense; (4) bad debt expense; (5) COVID-19 deferrals; (6) engineering and legal costs incurred in connection with Cause Nos. 45342 and 45389 (water and wastewater preapproval cases); (7) rate case expense; (8) regulatory expense; (9) depreciation expense; (10) payroll tax expense; (11) property tax expense; and (12) income taxes. We discuss these remaining disputed operating expense adjustments below.

## **Payroll and Benefits Expense.**

### Petitioner’s Evidence. Petitioner witness Robert Guttormsen[[11]](#footnote-12) testified about the Test Period payroll and benefits costs. Pet. Exh. No. 5, p. 3. He explained that payroll costs are increasing, driven by several factors, including:

* the promotion of its seven current field technicians to operator level positions by 2023, necessary to maintain an effective operational workforce to ensure that CUII is able to continue to supply safe and reliable water and wastewater service;
* leadership wages, related to promotions in the Company’s finance department;
* operations headcount, specifically the need to hire two new incremental employees in 2022 (Operator II and Apprentice) to alleviate pressure on current staff and reduce turnover, and necessary to maintain an effective operation workforce;
* addition of a Vice President of Business Development & Regulatory Affairs, responsible for high level strategic planning, facilitation, and execution of the North business unit’s growth initiatives in Illinois and Indiana, and responsible for advising on legislative, policy, and regulatory changes;
* addition of a Midwest project manager, responsible for all water and wastewater utility construction projects in Kentucky, Illinois, and Indiana from initial contract negotiations through warranty termination, which is instrumental to ensuring optimal project planning, compliance, and overall asset management which directly benefits CUII; and
* addition of a senior financial analyst, to perform a wide range of analysis, reporting, budgeting, and long-range planning activities, and to support and lead many aspects of Indiana’s regulatory process, necessary to ensure smooth financial operations continue for CUII and will help ensure the overall financial health of utility operations.

*Id.* at 4-7.

Mr. Dickson testified that employee benefit costs are increasing due to CUII’s headcount increase, increased pay rates, increase in total expected benefit costs, the 401k factor applied to payroll expense, total medical benefit cost increases. *Id.* at 7.

Mr. Dickson testified that salary and wages expense is calculated by employee and is based on current and anticipated levels of staffing and overtime assumptions for hourly employees based on historical data. *Id.* t 8. He testified that employee benefit costs are calculated by dividing total North region benefits forecasts for 2022 and 2023 by the forecasted total North region full time employees eligible to receive benefits. *Id.* at 8. The “per employee” benefit number is then applied to the forecasted full-time employees who service CUII. Costs for base payroll, benefits, and payroll taxes are allocated to CUII using the ERCs of each operating subsidiary each employee is expected to service. *Id.* at 9. In addition, he explained that 401k costs are included at 3% of eligible employee base pay to cover the cost of Corix’s non-elective annual 401k contribution, and 4% to cover the Company’s per paycheck match. *Id.* Finally, he stated that payroll taxes are forecasted by employee using current FICA, FUTA, and SUTA percentages and thresholds. *Id.*

Petitioner witness Loren Grosvenor testified specifically about CUII’s Operations Staff and the importance of paying competitive wages and benefits in order to attract and retain qualified employees. Pet. Exh. No. 3 at 7. He first described the various duties of the CUII Operations Staff, as follows:

* They collect and test water samples at the various entry points of and within the water distribution system on a daily basis;
* They collect and run process sampling for the wastewater system.
* They are responsible for the operation and maintenance of the water and wastewater treatment plants, and complete necessary equipment repairs.
* They are responsible for submitting complete and accurate monthly reports to the IDEM and for maintaining compliance with all applicable local, state, and federal regulations.
* They operate and maintain the distribution and collection systems, order and safely store and identify necessary chemicals, complete field activities, respond to customer inquiries, and collect water meter readings on a monthly basis at all locations.

*Id.* at 6.

Mr. Grosvenor next testified that including himself, the CUII Operations Staff consists of only eight full-time employees, as follows:

* CUII has one Lead Operator responsible for managing and operating the WWTP and water treatment plant. The Lead Operator supervises and performs tasks necessary for the safe and reliable operation of WWTP. The Lead Operator also is responsible for maintaining plant compliance with Environmental Protection Agency (“EPA”) standards and water regulations. CUII’s goal is to have two Lead Operators, one that is primarily responsible for wastewater and another primarily responsible for water, with both must being competent and trained with respect to the operation of both plants so they can cover each other. CUII is down to one Lead Operator at the present time. *Id.* at 6-7.
* CUII currently employs six field technicians. Field Technicians are responsible for water meter reading to facilitate customer billing and for performing minor meter and/or system maintenance. In addition, Field Technicians act as liaisons between the customers and customer service personnel for problem/complaint resolution. Field Technicians also assist with maintaining mechanical, electrical, and piping systems for area wastewater facilities and collection systems. Once new Field Technicians are on staff, CUII trains them and works to get them certified as Operators. *Id.* at 7.

Mr. Grosvenor emphasized the need for CUII to hire additional staff. *Id.* He testified that CUII has experienced significant turnover largely due to the competitive job market. *Id.* He stated that CUII has lost multiple experienced plant Operators to higher paying opportunities. *Id.* To ensure CUII can continue providing adequate and reliable service, he testified that CUII needs to replace those employees and compensate them at competitive levels. *Id.* He stated that CUII currently has four open positions that it is seeking to fill:

* Another Lead Operator that will share responsibility for maintaining plant compliance with EPA standards and water regulations in addition to assisting with training of personnel and leading work crews.
* A Water-Wastewater Operator I who, under direct supervision, will be responsible for performing routine tasks related to the operation of water and/or wastewater treatment facilities. The Water-Wastewater Operator I will assist the Lead Operator with maintaining plant compliance and ensure plant safety and sanitary requirements.
* An Operation Apprentice, who will be a high school student enrolled in a work study program that will shadow licensed operators to learn about the career opportunities that exist within the Water-Wastewater industry. In addition to shadowing staff on a variety of tasks, students participating in the apprentice program may perform a range of non-skilled tasks such as data entry and some routine maintenance functions.
* A Field Technician to read water meters to facilitate customer billing, identify water meter equipment problems, and perform minor water meter and/or system maintenance. This Field Technician would be hired with the expectation that they would become an Operator to provide needed assistance at the plant.

*Id.* at 8.

Mr. Grosvenor stressed that CUII has experienced a large amount of turnover because its employees have been able to seek and obtain higher salaries from manufacturers in northwest Indiana. *Id.* at 9. He noted that the Lead Operator that left most recently specifically stated in his exit interview that CUII needs to raise wages in order to stay competitive. *Id.* Conversely, he noted there are few, if any, applicants with the type of experience needed to immediately join CUII’s staff and perform all of the tasks we need them to complete. *Id.* This lack of experience creates difficulties in training new employees and helping get them certified. *Id.* In Mr. Grosvenor’s opinion, offering competitive salaries to current and new personnel is crucial to ensuring the safe and efficient operation of the system. *Id.*

### Mr. Grosvenor testified that CUII recently increased operator salaries in order to help retain its employees. *Id.* Those increases are reflected in the total salaries and wages expenses used to forecast salaries and wages for this proceeding. *Id.*

### OUCC’s Evidence.

#### Maintenance Salaries and Wages. OUCC witness Margaret Stull agreed that Community should be authorized to increase its revenue requirement for maintenance salaries and wages expense but disagreed with some aspects of Community’s request. More specifically, Ms. Stull disagreed with the level of salary increases Community estimated. Ms. Stull also disagreed that Community’s rates should include a revenue requirement for two unfilled operational positions; expenses related to the promotions of field technicians, and Community’s inclusion in rates of its Vice President of Business Development position. Ms. Stull noted that Community proposes to increase its $566,012 base period maintenance salaries and wages expense by 64.95% ($367,621), resulting in *pro forma* maintenance salaries and wages expense of $933,633. Of that amount, $562,568 would be charged to water operations and $371,065 would be charged to wastewater operations. Ms. Stull noted Community proposes to hire additional maintenance employees and proposes salary increases in both 2022 and 2023. Increasing field technician and operator[[12]](#footnote-13) pay by approximately 50% ($31.90 / $21.00). Ms. Stull noted Community’s discussion of the number of additional maintenance employees it plans to hire is not consistent, that Mr. Guttormsen indicated Community plans to hire *two* new “operations” employees – an operator II and an apprentice, but Mr. Grosvenor testified that Community currently has *four* open positions - (1) another lead operator; (2) a water-wastewater operator I; (3) an operation apprentice (a high school student enrolled in a work study program); and (4) a field technician.

Ms. Stull also discussed the quality of proof Community provided to justify these increases. She noted she was frustrated in her efforts to assess Community’s current staffing levels as no information regarding base period employees was provided in Community’s workpapers, nor was there any information provided as to whether existing positions were vacant at the end of the base period. Ms. Stull also testified that Community’s workpapers do not indicate current hourly rates or projected hourly rates for its current and proposed maintenance employees, only hard-coded numbers for proposed employee salaries and wages expense. She noted however, that Mr. Guttormsen does make a general statement on page 4 of his testimony that “the promotions drive the current average wage rate for the hourly field tech from $21.00 to $31.90.”

Ms. Stull testified that, while she agrees reasonable wage increases should be included in forecasted salaries and wages, she did not conclude the wage increases proposed by Community should be considered reasonable or necessary. She testified Community provided no substantive evidence to support the 50% increase in pay Community projected, noting only a vague discussion by Mr. Grosvenor regarding employee turnover experienced by Community and the need for competitive wages. Ms. Stull also did not accept Community’s proposal to promote all its field technicians and increase pay by approximately 50%, pointing out that there was no evidence the job duties for these positions will be changing or any testimony explaining what new duties or responsibilities will be required of the employees being promoted from field technician to operator. Therefore, rejected Community’s proposal to promote all field technicians and its proposal to increase their pay rates by approximately 50%. Likewise, Ms. Stull asserted that nothing in Community’s case-in-chief supported or demonstrated the need for Mr. Guttormsen’s proposal to hire two additional employees. Ms. Stull added that it did not appear that Community decreased its overtime assumptions based on the addition of two new employees, despite Mr. Guttormsen’s statement that “the Operator II and Apprentice positions are necessary to alleviate the pressure on current staff.” Guttormsen, p. 4.

Ms. Stull testified that, while the need to incur overtime cannot be eliminated altogether, hiring additional employees should reduce the need for overtime. Ms. Stull also believed Community’s proposed salaries and wage expense included overtime expense. She noted that according to Mr. Guttormsen, “[h]istorical data is used to calculate overtime assumptions for hourly employees, which is 11.04% for CUII operations.” Guttormsen, p. 8. She explained that Mr. Guttormsen’s testimony provided no other information, nor did Community’s salary and wage workpapers that identifies the number of overtime hours included in its projected maintenance salary and wage expense.

Based on information obtained from the U.S. Bureau of Labor Statistics (“BLS”), Ms. Stull recommended annual raises of 5% for each employee in 2022 and 2023. Five percent represents the high end of the “3-5% wage level increase …standard across all operating companies at CRU and consistent with inflation expectations.” Ms. Stull explained that the most recent data available from the BLS is for May 2021 (OUCC Attachment MAS-5). The appropriate occupation code is 51-8031 “Water and Wastewater Treatment Plant and System Operators.” Based on the data she obtained for Indiana, the mean salary in May 2021 was $23.02 and the median salary was $22.75. She testified she considered the mean salary rate of $23.02 to be reflective of current market conditions as of the end of the base period. She then adjusted the salaries and wages for those employees that were below this rate as of the end of the base period but kept the salaries for the those making more than $23.02.

Ms. Stull recommended a $61,549 increase to base period maintenance salaries and wages expense of $566,012, resulting in *pro forma* maintenance salaries and wages expense of $627,561, of which $378,168 would be charged to water operations and $249,393 would be charged to wastewater operations. (CONFIDENTIAL OUCC Attachment MAS-6). (See also OUCC Schedule 6, Adjustment No. 1.)

#### General Salaries and Wages. Ms. Stull also addressed Community’s proposed 64.95% ($134,208) increase to base period general salaries and wages expense of $206,634, resulting in *pro forma* general salaries and wages expense of $340,842. Of this amount, $205,377 would be charged to water operations and $135,465 to wastewater operations. Ms. Stull explained that the OUCC recommended a smaller $55,334 increase to base period general salaries and wages expense resulting in *pro forma* maintenance salaries and wages expense of $261,968 (CONFIDENTIAL OUCC Attachment MAS-6). Of this amount, $157,862 should be charged to water operations and $104,106 should be charged to wastewater operations. (See OUCC Schedule 6, Adjustment No. 6.)

Ms. Stull explained that CUII proposed to include in rates salaries and wage expense associated with three corporate leadership positions: a vice president of business development and regulatory affairs (34.64% allocated to CUII); a Midwest project manager (27.10% allocated to CUII); and (3) a senior financial analyst (34.64% allocated to CUII). Ms. Stull noted that Community also proposes salary increases for both 2022 and 2023 of 3% to 5%. Ms. Stull generally accepted Community’s proposed salary increases for 2022 and 2023. She also accepted the allocated costs associated with the addition of a financial analyst and Midwest project manager, but she disagreed with the inclusion of a vice president of external affairs and business development. Based on the duties of this position, which include business development activities and external affair activities, Ms. Stull testified that the costs of the position should not be recovered from ratepayers.

Ms. Stull explained why business development activities are non-recoverable, noting that the Commission has previously found that business development costs should be borne by shareholders, not ratepayers.[[13]](#footnote-14) She noted Mr. Guttormsen’s argument that ratepayers benefit from growth resulting from business development opportunities presupposes there will be growth because the position, which is without any guarantee of growth or that any of the benefits listed by Mr. Guttormsen will occur. Further, Ms. Stull asserted that growth benefits shareholders as much or more than ratepayers, and it should be shareholders that bear the costs of those efforts. Finally, Ms. Stull noted the benefits cited by Mr. Guttormsen sound very much like the benefits ratepayers are already supposed to be receiving through the shared services provided by Water Service Corporation (“WSC”) and for which Community has already included $689,058 (i.e., the corporate overhead allocation from WSC).

Ms. Stull also listed responsibilities and duties of the position, which she asserted are related to business development and, therefore, the associated costs should not be recoverable from ratepayers. These included “High level strategic planning, facilitation, and execution of the North business unit’s growth initiatives in Illinois and Indiana;” “Direct, prepare, and present business case proposals to other Executive business partners within the Corix Group of Companies;” “Development and execution of the overall organization’s growth strategy; “Motivate leadership and other stakeholders to take ownership of business development;” “Advise the President on legislative, policy, and regulatory changes advantageous to the Company’s goals;” “Seeks partners to implement these changes;” and “Identifies, establishes, and maintains crucial relationships at local, state, and federal levels.” Ms. Stull asserted those responsibilities directly benefit shareholders with no discernable benefit to ratepayers. She added that “identif[ying], establish[ing], and maintain[ing] crucial relationships at local, state, and federal levels.” sounds very much like lobbying.

Ms. Stull added that Community has not supported recovery of these costs with substantive evidence showing recovery of these costs is reasonable and prudent and benefits ratepayers. She asserted that notwithstanding the listed duties, Mr. Guttormsen did not explain why the position is needed or whether anyone is currently performing these duties and, if so, why they cannot continue to do so. Ms. Stull also pointed out that over one-third of the cost of this position will be allocated to Indiana, a state with only three small water and wastewater utilities. Ms. Stull asserted the cost of that position should not be included in general salaries and wages expense.

#### Pensions and Employee Benefits. Finally, Ms. Stull explained why she disagreed with Community’s proposed 48.42% or $106,483 increase to base period pensions and employee benefits expense of $219,936. Ms. Stull explained that while she accepted the costs proposed by Community for its various employee benefits, her recommended pension and employee benefits expense is based on the headcount and salaries and wages expense she recommended. Accordingly, she recommended a $26,281 increase to base year pensions and employee benefit expense of $219,936, resulting in *pro forma* pensions and employee benefits expense of $246,217 (See OUCC Schedule 6, Adjustment No. 7.)

### Petitioner’s Rebuttal.

#### Maintenance Salaries and Wages. Mr. Dickson testified that CUII has struggled with retention of employees historically, and it has open positions at present that are emblematic of the tightness of the labor market in which CUII participates. *Id.* at 23. In his case-in-chief testimony, Mr. Dickson testified that CUII had four open maintenance positions: lead water/wastewater operator (filled by existing CUII employee obtaining the requisite training, resulting in a need to backfill his position), operator II, field tech II, and an operations apprentice. The operator II and operations apprentice are new positions. *Id.* at 23-24. At the evidentiary hearing, he updated his testimony and clarified that CUII had two open positions – operator II and operations apprentice.

Mr. Dickson explained that CUII’s expectation for its current field technicians is that they obtain licenses in order to advance to the level of experience and expertise needed to perform more complicated processes without supervision. *Id.* at 24. He explained that it is a necessity for CUII, with the size of staff that it has, that its staff be well trained and able to function with less supervision over time. *Id.* According to Mr. Dickson, this is not just an expectation, but a necessity for CUII staff to achieve the level of competency required by the forecasted promotion, in order for CUII to continue to provide adequate services to customers. *Id.* CUII’s customers benefit from a well-trained staff. *Id.* at 29. He noted that all existing field technicians are expected to complete requisite training in order to perform independent of direct supervision. *Id.* In practice, he stated, field technicians are operators in training – the expectation is that within two years, field technicians complete training to become operator I’s. Growth of employees is not only a good management practice for employee retention but is also an operational necessity for CUII. *Id.* Employees at their current level of training cannot complete all tasks required to operate CUII’s facilities, applying pressure to CUII’s senior operational staff to oversee newer employees. *Id.* With additional turnover, the process starts over – education and promotion are required by CUII to maintain and retain an adequate workforce. *Id.*

Mr. Grosvenor also took issue with the OUCC’s objection to the promotion of its field technicians. Pet. Exh. No. 3-R at 32. He characterized the OUCC’s position as an apparent effort to save money at the expense of offering safe and reliable service. *Id.* He stated that CUII is stretched as thin as he could ever recall and emphasized that CUII urgently needs employees that are qualified to perform tasks necessary for the safe and reliable operation of the WWTP. *Id.* He stressed that certified operators are critical to this process. *Id.* Right now, he stated CUII has six field technicians who have shown commitment to the utility and a desire to learn. *Id.* In Mr. Grosvenor’s opinion, it makes sense to promote and continue to grow these employees to meet the critical needs of the system and to help retain employees as they become an essential part of operations. *Id.*

Mr. Grosvenor also responded to the OUCC’s statement that CUII had not explained the new duties or responsibilities that will be required of employees promoted from field technician to operator. *Id.* He noted that his direct testimony included both the job description of a Wastewater Operator I and the job description of a Field Technician. *Id.* Further, he testified that a Wastewater Operator must be licensed through a program overseen by the IDEM. Licensed operators are able to perform preventative maintenance, inspections, cleaning, repairs and long-range system upgrades at the wastewater treatment plant. *Id.* at 32-33. Field Technicians, on the other hand, are responsible for water meter reading to facilitate customer billing and for performing minor meter and/or system maintenance. *Id.* at 33. He testified that having more licensed Operators will take significant burdens off of himself and the Lead Operators, who cannot be available everywhere and at all times of the day. *Id.* Moreover, he noted that when a Field Technician is licensed as an Operator, it gives the employee a greater sense of responsibility because their license is on the line when they perform their job duties, adding value for both CUII and its customers. *Id.*

Mr. Grosvenor explained that being a Field Technician is generally viewed a step to becoming an Operator. *Id.* Given the fact that CUII is small, he stated it is preferable to have employees that can perform all functions, from meter reading and repair to routine wastewater treatment plant maintenance tasks. *Id.* Further, he stated that in recruiting Field Technicians, CUII advises them that CUII will support them in being trained and licensed to become Operators. *Id.* Thus, he stated, there generally is an expectation on the part of all parties that a Field Technician will become an Operator, and without this room for growth, it could be difficult to hire field technicians. *Id.*

Additionally, Mr. Grosvenor reiterated that CUII is facing an unprecedented level of turnover. *Id.* He testified that given the level of competition in the market, adopting a policy of not promoting Field Technicians would increase: (i) the likelihood of losing qualified Field Technicians who would become dissatisfied with the lack of opportunity for advancement; and (ii) continued staffing shortages of licensed Operators. *Id.* at 33-34. As to the latter issue, he testified that CUII has lost multiple experienced plant Operators to higher paying opportunities and with current market conditions continuing, CUII is likely to lose more qualified Operators. *Id.* at 34.

Moreover, Mr. Grosvenor reiterated that there are few, if any, applicants with the type of experience and certification needed to immediately be an Operator. *Id.* As a practical matter, he noted that CUII does not get many applicants for positions that are licensed Operators. *Id.* He stated that in almost every case where the Company hires a Field Technician, it would have preferred to have hired someone with an Operator certification. *Id.* However, those individuals are simply not available. *Id.* In his opinion, it is critical that CUII train Field Technicians to fill those roles.*Id.*

With regard to the two new operations staff positions, Mr. Grosvenor disagreed with the OUCC’s position that these positions are not necessary. *Id.* at 35. He testified that CUII is operating at a low staffing level, and it is imperative to add staff. *Id.* As indicated above, CUII has eight operations employees. *Id.* However, this does not translate to eight available qualified team members available at all times. *Id.* As a practical matter, due to the rapid turnover, there are always new employees who must be trained. *Id.* This means not only that the trainee is not yet a completely effective employee, but it also means that other members of the staff must take time away from their jobs to train the individual. *Id.*  at 36. In addition, CUII has to work around employee PTO and other time off. *Id.* Simply put, according to Mr. Grosvenor, CUII is operating at minimal staffing levels and needs to make additions to more effectively operate the system. *Id.*

Mr. Grosvenor noted that CUII has recently replaced the recently vacated Lead Operator position by promoting an existing employee. *Id.* This means, CUII now is short two Operators, or Field Technicians, depending on the type of applicants. He stated that the Company plans to hire an apprentice that it could transition to a full-time permanent job. *Id.* He testified that the thought behind the apprenticeship program is that the Company is seeing a lack of applicants with experience in this field, and it wants to promote interest from the younger generation in the trades. *Id.* In Mr. Grosvenor’s view, it is crucial that CUII fill its open operations staff positions in the immediate future. *Id.*

Mr. Dickson also testified that CUII has already adjusted the pay rates for its maintenance staff to reflect analysis performed by CUII’s human resources department, which found that CUII’s staff were being paid below the market midpoint. Pet. Exh. No. 4-R at 24-25. This pay guidance is based on data from the AWWA Compensation Study. *Id.* at 25.Mr. Dickson stated that, not only is the AWWA’s study credible, it allows CUII to consistently benchmark itself with a trusted source. *Id.*

Mr. Dickson testified that, to triage the employee retention issues that CUII has experienced, an adjustment to reflect labor market conditions and pay distributions was rational and prudent; CUII needs to maintain wages that are competitive. *Id.* CUII is actively competing against not just water and wastewater system operators for talent, but also competing against steel and other manufacturers in the area who are recruiting workers with the same skillset and licensing as CUII’s and those employers are paying a premium for that talent, in a higher cost area of Indiana. *Id.* He noted that Indiana state data, such as that cited by Ms. Stull, does not reflect that intrastate variance, nor the competitiveness of the labor market that CUII experiences in close proximity to Gary and the greater Chicago area. *Id.* at 25-26.

Mr. Grosvenor also emphasized that disallowance of pay increases, as proposed by the OUCC, will result in further attrition of qualified employees and degrade the quality of service provided to customers. Pet. Exh. No. 3-R at 34. He reiterated that CUII has experienced a large amount of turnover because employees have been able to seek and obtain higher salaries from manufacturers in northwest Indiana. *Id.* at 34-35. He stated that the Lead Operator that left most recently specifically stated in his exit interview that CUII needs to raise wages in order to stay competitive. *Id.* at 35.

Mr. Dickson noted a modification to its overtime assumptions to reflect an on-call pay change that was instituted in February 2022. Pet. Exh. No. 4-R at 26. He stated that, in general, CUII has increased the pay for employees to be equal to one hour of overtime (1.5x) to better reflect the responsibility and availability required of employees to be on-call. *Id.* This does not reflect the changes to the call-out rate, which is also increasing to reflect the burden of addressing spontaneous customer needs when on call, particularly on weekends. *Id.* These changes are a necessity for CUII to not only compensate employees fairly, but to be able to retain employees that have been trained and are capable of performing the work that running water and sewer utilities demand of their operations staff. *Id.* A corresponding decrease has been instituted to CUII’s overtime rate to remove on-call pay from the calculation and address it separately. *Id.*

Mr. Dickson emphasized that CUII is seriously understaffed. *Id.* Current staff are overworked and cannot complete all work that CUII would like performed to meet its dual goals of excellent service and a positive work environment. *Id.* at 26-27. CUII’s four open maintenance positions of lead operator, field tech II, operator II, and operations apprentice are needed to meet the basic employment needs of CUII. *Id.* at 27. These hires will not have an impact on CUII’s overtime rate for two reasons: (1) CUII calculates its overtime rate based on historical data during which there were only two open positions (operator II and operations apprentice) and (2), the additional headcounts will perform additional work that CUII has not been able to perform without full staffing. *Id.*

Mr. Grosvenor added further color to CUII’s employee turnover problem, in the form of a spreadsheet showing the employees that have left the Company since 2016. Pet. Exh. No. 4-R, Attachment LG-R3. The individuals shown are full-time employees, exclusive of part-time employees and interns. *Id.* at 35. Over the course of that period, 22 employees left CUII, which amounts to approximately four per year. *Id.* This is a significant number for a utility the size of CUII, that currently has only eight full-time employees. *Id.* This means that every year, CUII is losing half of its qualified workforce. *Id.* In Mr. Grosvenor’s opinion, this is not an ideal way to operate a utility. *Id.*  He concluded that increasing wages is absolutely necessary if CUII is going to be able to attract and retain a qualified workforce. *Id.*

#### General Salaries and Wages. Mr. Dickson testified that CUII has not filled the Senior Financial Analyst, Project Manager, or VP of Business Development positions. Pet. Exh. No. 4-R at 28. Further, the Director of Engineering and Asset Management and Regional Director of FP&A positions are vacant. *Id.* He testified that CUII looks to fill all five of these positions in 2022. *Id.* Mr. Dickson noted that even at full employment of current positions, CUII remained understaffed. *Id.* at 29. He stated that all maintenance employees have experienced untenable workloads, resulting in some of the turnover that CUII has experienced, because of the difficulty CUII has had in filling these two new positions. *Id.* He testified that the elimination of these positions only serves to worsen existing struggles CUII is experiencing with retention. *Id.* Further, he noted that there are additional useful operational tasks that CUII’s staff could be undertaking, as Mr. Grosvenor testified—specifically, the current staffing level makes it difficult to complete manhole inspections, home inspections and GIS data collection and CUII also would like to do some work that we currently are outsourcing, such as excavation and leak repair, which CUII has been unable to address with its existing positions. *Id.*

#### Vice President of Business Development. With regard to the position of Vice President of Business Development, Mr. Lubertozzi and Mr. Dickson testified that the work product of this position, namely acquisitions within Indiana and Illinois, will substantially benefit existing CUII customers through the proliferation of the customer base across which revenue requirements are spread, and through a dollar cost averaging of rate base per customer with savvy acquisitions. Pet. Exh. No 1-R at 17; Pet. Exh. No. 4-R at 30. The quality and quantity of acquisitions is directly related to the amount of time that CUII can invest in pursuing investments. Pet. Exh. No. 4-R at 30. The purpose of this position is to augment both factors, resulting in net benefits for existing CUII customers. CUII’s share of this position’s salary is only 34.64% of the total expense, and the net benefit to CUII’s customers will exceed the allocated wage expense over time. *Id.* Mr. Dickson emphasized that this position is needed to provide an opportunity for CUII to grow its customer base, thus providing a larger denominator across which investment costs may be spread. *Id.* He assertedthe addition of the VP BD will ensure a robust pursuit of development opportunities that benefit CUII’s customers. *Id.* Mr. Lubertozzi denied that this position will involve lobbying. Pet. Exh. No 1-R at 17.

### Commission Discussion and Findings. The parties’ positions indicate that there are four issues in dispute with respect to payroll and benefits expense: (1) whether two unfilled operational positions operations should be reflected in rates; (2) whether promotions of field technicians should be reflected in rates; (3) whether Petitioner’s full estimated salary increases should be reflected in rates; and (4) whether the Vice President of Business Development position should be reflected in rates.

We begin our discussion by noting that whether relying on an historic test year or forward-looking test years as Petitioner has proposed, our function in addressing proposed revenue requirements is not to dictate precisely how a public utility will spend the rates we authorize or set the public utility’s budget that it must then follow. Indeed, few of our *pro forma* revenue requirements are coupled with reporting requirements or tied to restricted accounts. Rather our function is to determine whether the utility’s proposed revenue requirements are reasonable for rate making purposes. In addition to our determining whether an expense is reasonable, we must also consider whether the requested *pro forma* revenue requirement will actually be met by the expense Petitioner has described.

While the OUCC agreed Petitioner’s forward-looking test year should include a revenue requirement reflecting a wage increase over current wages, the OUCC took issue with a 50% wage increase for the hourly field tech position, pointing out that there was no evidence the job duties for these positions will be changing or any testimony explaining what new duties or responsibilities will be required of the employees being promoted from field technician to operator. In Petitioner’s rebuttal case, Mr. Grosvenor characterized the OUCC’s position as an apparent effort to save money at the expense of offering safe and reliable service. *Id.* He stated that CUII is stretched as thin as he could ever recall and emphasized that CUII urgently needs employees that are qualified to perform tasks necessary for the safe and reliable operation of the WWTP. *Id.* With regard to the two new operations staff positions, Mr. Grosvenor testified that CUII is operating at a low staffing level, and it is imperative to add staff. *Id at 35.*

We find this response both troubling and informative. Petitioner does not lack any Commission permission to address its operational problems. Had Petitioner based its rates on an historical test year, there would be no question that its revenue requirement would be based on the staffing levels and wages that applied no later than through the 12-month adjustment period. In that case, Petitioner already would have taken the financial and managerial steps it determined to be the way to solve its operational and personnel problems. Petitioner’s ability and decision to base rates on a forward-looking test year should not serve as an excuse to operate without the staffing levels Petitioner claims it needs. Petitioner’s obligations to operate its utility properly and proactively was not diminished by the General Assembly’s authorization of forward-looking test periods. If Petitioner’s staffing issues was just a function of setting higher wages and changing its internal practices, Petitioner could have and should have solved that problem by now. If, however, Petitioner’s staffing issues are not so simple to resolve, we may still expect Petitioner to have unfilled positions, while it would continue to collect rates based on the higher revenue requirement. We also note, as did the OUCC, that despite asking for a significant increase over existing wage expense to solve its personnel problems including the alleviation of pressure on existing staff, Petitioner proposes no reduction to its overtime expense. This may be construed as a lack of analysis or a lack of confidence that Petitioner’s significant increase in its revenue requirement will actually result in alleviation of its personnel issues.

Petitioner asks us to increase its salary and wage expense by approximately 50% when it is a utility that by its own rebuttal position has been operating at a low staffing level, stretched thinner than any other time the witness can recall. Based on its practices and the evidence presented, we do not find that a 50% increase over base period salary and wage expense is reasonable or supported by Petitioner’s evidence or its practices.

While we do not find Petitioner’s proposed salary and wage revenue requirement to be reasonable or representative of its forward-looking operations, we are not unmindful that wages and employee expectations may have changed. Based on information obtained from the U.S. Bureau of Labor Statistics (“BLS”), Ms. Stull recommended annual raises of 5% for each employee in 2022 and 2023. Five percent represents the high end of the “3-5% wage level increase …standard across all operating companies at CRU and consistent with inflation expectations.” Ms. Stull explained that the most recent data available from the BLS is for May 2021 (OUCC Attachment MAS-5). The appropriate occupation code is 51-8031 “Water and Wastewater Treatment Plant and System Operators.” Based on the data she obtained for Indiana, the mean salary in May 2021 was $23.02 and the median salary was $22.75. She testified she considered the mean salary rate of $23.02 to be reflective of current market conditions as of the end of the base period. She then adjusted the salaries and wages for those employees that were below this rate as of the end of the base period but kept the salaries for the those making more than $23.02.

Based on her analysis, Ms. Stull recommended a $61,549 increase to base period maintenance salaries and wages expense of $566,012, resulting in *pro forma* maintenance salaries and wages expense of $627,561, of which $378,168 would be charged to water operations and $249,393 would be charged to wastewater operations. (CONFIDENTIAL OUCC Attachment MAS-6). (See also OUCC Schedule 6, Adjustment No. 1.)

We next address whether Petitioner’s Vice President of Business Development should be included in rates as an above the line expense. Based on the duties of this position, which include business development activities and external affair activities, Ms. Stull testified that the costs of the position should not be recovered from ratepayers. Ms. Stull explained that business development activities are non-recoverable, noting that the Commission has previously found that business development costs should be borne by shareholders, not ratepayers.[[14]](#footnote-15) She noted Mr. Guttormsen’s argument that ratepayers benefit from growth resulting from business development opportunities presupposes there will be growth because the position, which is without any guarantee of growth or that any of the benefits listed by Mr. Guttormsen will occur. Further, Ms. Stull asserted that growth benefits shareholders as much or more than ratepayers, and it should be shareholders that bear the costs of those efforts. Finally, Ms. Stull noted the benefits cited by Mr. Guttormsen sound very much like the benefits ratepayers are already supposed to be receiving through the shared services provided by Water Service Corporation (“WSC”) and for which Community has already included $689,058 (i.e., the corporate overhead allocation from WSC).

Ms. Stull asserted the listed responsibilities and duties of the position relate to business development and, therefore, the associated costs should not be recoverable from ratepayers. These duties included “High level strategic planning, facilitation, and execution of the North business unit’s growth initiatives in Illinois and Indiana;” “Direct, prepare, and present business case proposals to other Executive business partners within the Corix Group of Companies;” “Development and execution of the overall organization’s growth strategy; “Motivate leadership and other stakeholders to take ownership of business development;” “Advise the President on legislative, policy, and regulatory changes advantageous to the Company’s goals;” “Seeks partners to implement these changes;” and “Identifies, establishes, and maintains crucial relationships at local, state, and federal levels.” We agree the responsibilities directly benefit shareholders and find no discernable or implicit benefit to ratepayers. And we agree that “identif[ying], establish[ing], and maintain[ing] crucial relationships at local, state, and federal levels” falls within lobbying and cannot properly be recovered from ratepayers.

### Mr. Lubertozzi and Mr. Dickson testified that the work product of this position, namely acquisitions within Indiana and Illinois, will substantially benefit existing CUII customers through the proliferation of the customer base across which revenue requirements are spread, and through a dollar cost averaging of rate base per customer with savvy acquisitions. Pet. Exh. No 1-R at 17; Pet. Exh. No. 4-R at 30. We see no evidence to support a finding that such acquisitions may be considered to benefit Petitioner’s Indiana customers. A reading of Indiana’s water or wastewater utility acquisition statute (I.C. § 8-1-30.3-1 *et seq*.) makes it clear that a benefit to CUII’s existing customers is not a prerequisite to approval of beneficial ratemaking treatment or acquisitions as a whole. I.C. § 8-1-30.3-5(d)(7). With respect to whether the existing customers of the acquiring utility will benefit from the acquisition with lower rates, no such benefit can be assured. Subsection (d)(7) only purports to protect existing customers from rates that *increase unreasonably* as a result of any acquisition. To that end, if pursuing acquisitions is the primary goal of the position, Petitioner’s existing customers should not be required to fund a position that represents a danger to existing customers of higher rates.

The OUCC maintained that business development activities are non-recoverable, noting that the Commission has previously found that business development costs should be borne by shareholders, not ratepayers. In Cause No. 44022, which resulted in an order in 2012 before the passage of I.C. § 8-1-30.3-1 *et seq*., the Commission found in that case that “there was no evidence that the Business Development activities provide a benefit to ratepayers – in fact, the Commission is concerned that ratepayers may be subsidizing business development with limited offsetting benefits.” (Final order dated June 6, 2012, in Cause No. 44022, page 70.) That reasoning is no less true under the existing regulatory paradigm.

We find the *pro forma* revenue requirement for the vice president of business development and regulatory affairs (34.64% allocated to CUII) shall not be included in Petitioner’s *pro forma* revenuer requirement. We find the allocated costs associated with the addition of a financial analyst and Midwest project manager shall be included in Petitioner’s revenue requirement.

Finally, we address the appropriate level of employee benefits. The parties do not disagree as to how benefits are to be calculated. However, the OUCC and Petitioner disagree about the basis of this calculation. As we agree with the OUCC’s recommended salaries and wages expense, we adopt the OUCC’s proposed *pro forma* expense for employee benefits. Ms. Stull recommended a $26,281 increase to base year pensions and employee benefit expense of $219,936, resulting in *pro forma* pensions and employee benefits expense of $246,217 and we so find.

## **Capitalized Labor.**

### Petitioner’s Evidence. Petitioner witness Dickson testified that operating expense charged to plant is forecasted based on anticipated capital investments from Operations. Operating expenses charged to plant, otherwise referred to as capitalized time or cap time, is calculated based on the following components: (1) capital project cap time, which represents the hours to be worked on each forecasted capital project; and (2) capital additions/replacements cap time, which represents the hours to be worked for general plant additions/replacements. Pet. Exh. No. 1, p. 37. According to Attachments AD-1 and AD-3, Petitioner proposes total capitalized labor of $159,573, of which $86,022 is charged to water operations and $(73,551) is charged to wastewater operations.

### OUCC’s Evidence. OUCC witness Stull criticized the lack of any specific testimony regarding proposed capitalized time rates in Petitioner’s case-in-chief. Ms. Stull stated that Mr. Dickson did not explain what is meant by “IN operator cap time” nor did he state the capitalized time rates proposed or how those rates were calculated. Petitioner’s witness Guttormsen, Petitioner’s primary witness discussing payroll and benefits, did not mention capitalized time, much less the capitalized time rates being proposed or an explanation of how those rates were calculated. Ms. Stull stated the capitalized time rates proposed by Petitioner were (1) $45.82 per hour as of September 30, 2021, (2) $47.19 per hour as of January 1, 2022, and (3) $48.61 per hour as of January 1, 2023. Ms. Stull further explained the capitalized time workpapers provided in Attachments AD-1 and AD-3 have only hard-coded amounts for the various capitalized time rates proposed and she was unable to replicate the same rates calculated by Petitioner. Pub. Exh. No. 1 at 42-43.

As the OUCC recommends rates be based on lower salary and wage increases, Ms. Stull’s recommended capitalized time rates were follows: (1) $35.28 per hour as of September 30, 2021, (2) $37.98 per hour as of April 1, 2022, and (3) $40.11 per hour as of April 30, 2023. She explained these rates are based on the average hourly rates for maintenance employees, excluding the state operations manager, as proposed by the OUCC. *Id.* at 43-44; *see* Attachment MAS-7. Based on these capitalized time rates, Ms. Stull recommended total capitalized labor costs of $136,697 (base period of $128,965) + $7,732,) of which $70,081 is charged to water operations and $66,616 is charged to wastewater operations. *Id.* at 44.

### Petitioner’s Rebuttal. Petitioner did not rebut the OUCC’s recommendations with respect to capitalized labor. Mr. Dickson provided testimony updating adjustments to forecasted test year payroll and benefits expense. Attachments AD-R03 and AD-R04 to his testimony, which reflected the proposed payroll expense updates, did not change the amount of capitalized labor proposed by Petitioner.

### Commission Discussion and Findings. As we have found the OUCC’s recommended wage and salary increases are appropriate and should be used for ratemaking purposes, we accordingly find capitalized labor should be based on the costs set forth in Ms. Stull’s testimony. We find total capitalized labor costs of $136,697 (base period of $128,965 + $7,732,) of which $70,081 will be charged to water operations and $66,616 will be charged to wastewater operations.

## **Purchased Water Expense.**

### Petitioner’s Evidence. Petitioner witness Andrew Dickson testified that the level of purchased water expense is forecasted, by month, based on respective levels of forecasted purchased water and forecasted purchased water rates. Forecasted purchased water rates of $2.96 per thousand gallons in the test period were based on current charges from Petitioner’s supplier, Indiana American Water Co., of $2.79 and an anticipated increase of 3% per year.Forecasted purchased water volumes were calculated based on Petitioner’s base year purchased volumes, reduced by the consumption decline for the Indiana Water Service, Inc. percentage of 1.82%. Pet. Exh. No. 4 at 32; *see* Attachment AD-3, “Purchased Water Forecast.”

### OUCC’s Evidence. OUCC witness Margaret Stull took issue with Petitioner’s proposed purchased water expense. Pub. Exh. No. 1 at 44. She testified that she did not agree with Petitioner’s forecasted purchased water volumes, and she did not agree with the proposal to apply an inflation factor to the rates it is charged for purchased water. *Id.* With regard to the inflation rate, she stated it is not necessary to forecast purchased water rate increases because Petitioner has the ability to file a purchased water tracker. *Id.* at 45. She noted that forecasting purchased water price increases could allow Petitioner to recover these price increases twice – once for the rate increase forecasted in its forward-looking test year and again through a water tracker when the rate increase actually occurs. *Id.* Instead, Ms. Stull proposed that Indiana American’s DSIC-13 rate increase be included in this rate case, eliminating the need for Petitioner to file a water tracker due to the DSIC 13 increase. *Id.*

### With regard to Petitioner’s forecasted purchased water volumes, Ms. Stull noted Petitioner has proposed a declining consumption adjustment for operating revenues while simultaneously proposing forecasted purchased water volumes greater than base year levels. She asserted that purchased water volumes should be consistent with the assumptions used to forecast Indiana Water Service, Inc.’s water revenues. *Id.* at 46. Ms. Stull explained that she calculated purchased water expense in two parts - (1) meter charges and (2) volumetric charges. She included $19,908 ($829.51[[15]](#footnote-16) x 2 x 12) for fixed monthly charges including meter charges for two 6” meters and the DSIC charge, and she included $317,607 ($0.27867 x 1,139,724) for volumetric charges determined by multiplying base year purchased water volumes adjusted for Community’s declining consumption of 1.82% for IWSI. Ms. Stull calculated a total recommended *pro forma* purchased water expense of $337,515 ($317,607 + $19,908), which is a $28,388 decrease to base period purchased water expense. *Id*.

### Petitioner’s Rebuttal. With regard to purchased water volumes, Mr. Dickson disagreed with Ms. Stull’s forecast, but generally acknowledged that Ms. Stull’s approach is reasonable. Pet Exh. No. 4-R, at 31. He explained that Petitioner originally used invoices paid in the base period to identify purchased water used in its base period. *Id*. However, he noted, the actual service period on those bills can differ. *Id*. at 31-32. He stated that Ms. Stull’s efforts use Petitioner’s bills to identify the service periods in which water purchased occurred. *Id*. at 32. He testified that Petitioner has taken this a step further in identifying the service period and usage of bills since 2016. *Id*. He stated that calendar year 2021 is the lowest level of usage Petitioner has experienced in this time period, at 118,103 kilogallons, with as much as 133,720 kilogallons used in a calendar year (2017). *Id*. He stated that this is attributable to not only declining consumption, but also improvements to unaccounted for water (UFW) losses; as can be seen in Petitioner’s 2020 annual report, Petitioner’s 2020 UFW percentage was 14.2%, which was reduced to 10.8% in 2021. *Id*. Based on this analysis, Mr. Dickson agreed with Ms. Stull that Petitioner’s original purchased water volume forecast is too high – producing a linear equation to represent Petitioner’s purchased water volume trends from 2016 through 2021, one would estimate a 2021 purchased volume of 120,138 kilogallons. *Id*. This is approximately 2,000 kilogallons above Petitioner’s actual usage in 2021, according to the service period of January 7, 2021, through January 5, 2022, of 118,103 kilogallons. *Id*. Mr. Dickson testified that, to normalize the variable and reset the trend to normal levels, Petitioner’s new forecast starts with a ‘base period’ (this period is calendar year 2021) volume estimation of 120,138. *Id*. Applying Petitioner’s IWSI consumption decline assumption of 1.82% for two years results in a test year forecasted volume of 115,816 kilogallons. *Id*. at 33. Mr. Dickson testified that with a test year forecasted usage of 115,816 kilogallons, Petitioner forecasts a test year level of purchased water expense of $342,654. *Id*. He noted that this excludes all inflationary assumptions that were included in Petitioner’s direct case position and represents a difference of $5,139 from Ms. Stull’s position ($337,515). *Id*.

Mr. Dickson also agreed that using the most current rates that Petitioner experiences from Indiana American (“IA”) is the appropriate foundation for its forecast, and that Petitioner will have an opportunity to recover changes in those rates through its water tracker. Pet Exh. No. 4-R, at 34. However, the specific rate referenced by Ms. Stull, IA’s DSIC-13, was only recently put into effect by IA, and Petitioner has not yet filed a water tracker for this charge. *Id*. Petitioner should not be barred from filing a water tracker to recover this change in purchased water costs between now and when Petitioner’s rates from this case go into effect. *Id*. However, Petitioner agrees that, should no further changes to the rates it experiences from IA be realized between now and the effective date of rates from this rate case, that Petitioner’s water tracker should be set to zero. *Id*. This recommendation fully removes the potential for any double recovery and does not preclude Petitioner from using its water tracker as it was intended; to make Petitioner whole for changes in purchased water expense between rate cases. *Id*.

### Commission Discussion and Findings. In his rebuttal testimony, Mr. Dickson acknowledged that Petitioner’s forecasted purchased water expense was overstated as presented in its case-in-chief. Mr. Dickson did not entirely agree with Ms. Stull’s forecasted purchased water volumes and proposed 115,816 kilogallons compared to Ms. Stull’s forecast of 113,972 kilogallons. While the parties disagree about whether Petitioner should be allowed to file a purchased water tracker to reflect the rate increase authorized in Cause No. 42351-DSIC13, the parties do agree on the rates to apply to forecasted consumption for purposes of this rate case.

### To forecast its operating revenues, Petitioner used *actual* base year consumption adjusted only for proposed declining consumption of 1.82% per year. But Petitioner did not use *actual* base year consumption as the starting point to calculate its purchased water expense. These two calculations should be done in a consistent manner. Accordingly, as *actual* base year volumes were used to forecast operating revenues, *actual* base year purchased water volumes are the most appropriate basis on which to forecast purchased water expense. Base year purchased water volumes were 118,237 kilogallons (wp MAS-OPEX4). Applying Petitioner’s proposed declining consumption results in a forecast of 113,972 kilogallons. Thereafter, applying Indiana American Water Company’s current tariffed water rates, including DSIC-13, to this forecasted consumption results in forecasted purchased water expense of $337,515.

We need not address whether Petitioner should be allowed to file a purchased water tracker prior to receiving an order in this case, as an order has already been issued. To the extent Petitioner has filed a water tracker to track the DSIC-13 increase before this order was issued, we find that the tracker shall be reset to zero with the implementation of these rates.

## **Bad Debt Expense (Uncollectibles).**

### Petitioner’s Evidence. Petitioner witness Andrew Dickson testified that uncollectible expense was forecasted by recalculating the statewide percentage of uncollectible amounts as a percentage of service revenues in the base period, and then applied that percentage to test year forecasted service revenues. Pet. Exh. No. 4 at 25. He testified that the statewide percentage of uncollectible expense to service revenue is 1.21% for water and 1.20% for sewer. *Id.*

### LOFS’ Evidence. LOFS witness Gary VerDouw testified that Petitioner’s recent level of uncollectible expense should decrease, because the recent level of expense took place during the COVID-19 pandemic. LOFS Exh. No. 2 at 25. Mr. VerDouw recommended using the uncollectible percentage (0.45%) from Petitioner’s last rate case (Cause No. 44724) instead. *Id.*

### Petitioner’s Rebuttal. Mr. Dickson testified that Petitioner will likely continue to experience the level of bad debt it has forecasted and may recognize a higher level with the increase of rates. Pet Exh. No. 4-R, at 36. Mr. Dickson stated Petitioner has not identified the price elasticity of demand for its services, but it is unlikely that its bad debt rate will decrease as Petitioner does not expect a sudden change in demand for its services. *Id*. Mr. Dickson argued the impact of increased rates is more likely to be an elevated level of bad debt, if any change at all. *Id*. CUII forecasted no change from its base period, which is consistent with the methodology used in Cause No. 44724 and has been approved by the IURC. *Id*.

### Commission Discussion and Findings. Petitioner's bad debt expense rate was 0.45% in its last rate case and has nearly tripled to approximately 1.2% in this case. Both Petitioner and LOFS considered the COVID-19 pandemic to be the cause for this increase in bad debt. While LOFS believes bad debt expense will revert to its pre-pandemic levels, Petitioner assumes that bad debt expense will continue at the current rate or even increase further. This contradicts Petitioner’s other assumptions in this case. Petitioner has assumed a “return to normal” for most of its operating expenses. Pet. Exh. No. 4 at 30. We are not persuaded that the conditions that caused the bad debt expense during Covid 19 will continue to exist. We find bad debt expense should be based on Petitioner’s pre-pandemic bad debt expense rate (0.45%) times test year service revenues. Therefore, based on our revenue findings above, bad debt expense is $11,563 for consolidated water operations and $11,291 for consolidated wastewater operations.

## **COVID-19 Deferred Costs.**

### Petitioner’s Evidence. Petitioner witness Mr. Dickson (Guttormsen) testified concerning Community’s COVID-19 deferrals. He explained that, throughout COVID-19, Community had deferred certain costs incurred as a result of the pandemic. Pet. Exh. No. 5 at 13. Specific categories of costs included legal fees, customer communication expense, and foregone late payment and reconnection charges. *Id.* He stated that forecasted COVID costs are based on the actual per month costs to date in Indiana. *Id.* He testified that Community is proposing to amortize COVID costs over three years beginning on October 1, 2022; the first day of the rate effective period and future test year. *Id.* He stated that CUII has not included any COVID costs in rate base and exclusively proposes to recover a return of, not on, costs incurred. *Id.* He testified that the deferred costs were prudently and necessarily incurred. *Id.* at 14. *See* Attachment RG-4.

### OUCC’s Evidence**.** OUCC witness Margaret Stull recommended the Commission limit the COVID–19 costs to be recovered as a regulatory asset to actual costs incurred in the seven months from March 2020 through October 2020. Pub. Exh. No. 1at 51. She stated that the Commission authorized utilities to use regulatory accounting only from March 2020 through October 12, 2020, when the Commission’s moratorium on charging late fees expired, pursuant to the Commission’s August 25, 2020 Order in Cause No. 45380. *Id.* Accordingly, she recommended that Petitioner be permitted to recover waived reconnection charges and waived late payment charges only up to and through October 2020. *Id.* She also recommended Petitioner be permitted to recover costs incurred for customer communication and legal costs incurred to file monthly reports to the Commission in Cause No. 45380. *Id.* at 52.

### Petitioner’s Rebuttal. Mr. Dickson testified that he did not disagree with Ms. Stull’s recalculation of foregone late payment charges, with her inclusion of Direct – Customer Communication costs ($3,171), Forgone reconnection charges ($63), or Direct – Legal Costs ($4,176). Petitioner has updated its Direct – Legal costs for an invoice recognized in December 2021, but paid in July 2021, of $352 also associated with these COVID-19 efforts. Pet. Exh. No. 4-R, at 34. Petitioner did disagree, however, on the relevant time period during which late payment charges should be recoverable. Ms. Stull limits this to March 2020 through October 2020. Pet Exh. No. 4-R, at 35. However, Petitioner recognized in October 2020 that the pandemic was far from over, and that customers would still benefit from the foregoing of late payment charges. Mr. Dickson testified that not until August 8, 2021, did Petitioner begin assessing late payment charges. *Id*. Thus, Petitioner includes an additional $50,916.47 in foregone late payment fees for that period (October 2020 through August 2021) that the OUCC has not. *Id*. With regard to an appropriate amortization period for the deferred COVID-19 costs, Mr. Dickson testified that five-year period is too long, because CUII expects to continue making investments in its systems in Indiana, thus its ability to earn its authorized return will atrophy. Pet Exh. No. 4-R, at 35. He stated that CUII’s proposed life of three years is far more likely to represent the life of the rates being set in this case. *Id*.

### Commission Discussion and Findings. There is no disagreement that Petitioner should be authorized to recover as a regulatory asset any late fees waived and any net actual costs incurred in the seven months from March 2020 through October 2020. But on October 12, 2020, pursuant to the Commission’s August 25, 2020 Order in Cause No. 45380, the Commission’s moratorium on charging late fees expired. During that period, the Commission authorized utilities to use regulatory accounting. The question is whether Petitioner should be permitted to construe a regulatory asset beyond the period for which it was authorized to create such a regulatory asset. We find that the answer is no. The authority to use regulatory accounting expired with the prohibition on the collection of late fees and disconnection fees on October 12, 2020.

# In its proposed order, Petitioner asked the Commission to note that “nowhere in our Orders in Cause No. 45380 did we terminate the authority for utilities to defer their foregone late payment charges.” This is inaccurate. Our June 29, 2020 order identified the emergency situation necessitating a modification to certain utility practices and charges. In that order, we found it was “appropriate and reasonable to authorize jurisdictional Indiana utilities to use regulatory accounting for any impacts associated with any prohibition on utility disconnections, waiver or exclusion of certain utility fees (i.e., late fees) (emphasis added.) Based on the unambiguous language we used, once the prohibition ended, the authority to use regulatory accounting ended. We repeated this language in our August 12, 2020 order extending the prohibition against colleting late fees for another 60 days until October 12, 2020. August 12, 2020 Order, pp 3-4. We also repeated this language in our August 25, 2021 order terminating our investigation in Cause No. 45380:

# On June 29, 2020, the Commission issued its Phase 1 and Interim Emergency Order temporarily amending jurisdictional Indiana utility practices by prohibiting utility service disconnections until August 14, 2020 and amending certain tariff rates and charges. Jurisdictional Indiana utilities were also authorized to use regulatory accounting for COVID-19 related impacts directly associated with any prohibition on utility disconnections, collection of certain utility fees (i.e., late fees, convenience fees, deposits, and reconnection fees), and the use of expanded payment arrangements as well as COVID-19 related uncollectible and incremental bad debt expense. In addition, the Commission required the monthly reporting to include information related to utility payment arrangements with customers.

# On August 12, 2020, the Commission issued its Second Interim Emergency Order extending until October 12, 2020 the temporary amendment of jurisdictional Indiana utility practices to offer extended payment arrangements of at least six months and exclude the collection of late fees, deposits, and disconnection/reconnection fees. The Commission also continued approval of the associated regulatory accounting treatment for such costs.

# Order, Cause No. 45380, August 25, 2021, pages 2-3 (emphasis added).

# We have consistently and unambiguously tied the regulatory accounting treatment we authorized to the prohibition on the collection of certain fees that expired by the terms of our August 12, 2020 order 60 days thereafter on October 12, 2020. Our orders in Cause No. 45380 provide no basis for favorable regulatory accounting treatment after that date. And we hasten to add that such authorized regulatory accounting necessarily translates into recovery of waived fees.

# June 29, 2020 Order, Cause No. 45380, p. 8.

# We also declared in a footnote in our June 29, 2020 Order that “[t]he burden of proof remains on the utility when seeking recovery of *any* amounts in rates.” June 29, 2020 Order, Cause No. 45380, p. 8 that (Emphasis added.) Most importantly, that footnote falls on the heels of another footnote that likewise clearly states “[i]mpacts, if any, related to the exclusion of late fees may be recorded, but utilities may not record or recover late fees not assessed.” *Id.* If we may assume the authority to use regulatory accounting extended beyond the prohibition of charging late fees, which we have declined to find, there was no evidence in the record that such additional waived late fees were actually assessed. To that end, we would expect there to be evidence that customers were assessed a late charge through a notice that also indicated the charge had been waived. There is no evidence any customer was assessed a late fee that they were not required to pay. In fact, Mr. Dixon testified in Petitioner’s rebuttal case that “[n]ot until August 8, 2021 did CUII begin assessing late payment charges.” Petitioner’s Exhibit 4-R, p. 35. The Commission’s order made it clear that late fees not assessed cannot be recovered or recorded. We would also note that late fees are an authorized penalty intended to induce customers to pay their bills on time and, while the revenues are recognized in rates, late fees do not represent an actual cost of the utility.

# We find that Petitioner may only recover the regulatory assets on late fees waived through October 2020. Accordingly, we accept and authorize the OUCC’s proposed recovery of a regulatory asset.

### As to the period during which recovery of the cost may be amortized, we agree with the OUCC that such recovery should be based on an amortization period of five years, which we find to be the likely life of Petitioner’s rates in this Cause. Nonetheless, we recognize the possibility that Petitioner may decide to file for a rate increase that would result in a rate order sooner than five years from the date of this order. To the extent Petitioner’s rates will not be in effect for the full five years, we find that any unmet recovery authorized by this order may and should be met through an appropriate mechanism presented by Petitioner in its next rate case.

## **Water and Wastewater Preapproval Engineering and Legal Costs.**

### Petitioner’s Evidence. Petitioner witness Steven Lubertozzi testified that Community has included the costs incurred to litigate Cause No. 45342 ($176,144), as a deferred O&M expense amortized over three years. Pet. Exh. No. 1 at 14. With respect to Cause No. 45389, Mr. Lubertozzi testified that the Company has included for recovery engineering costs needed to prepare requests for proposals, bids, and other engineering and design related costs, as a deferred O&M item amortized over forty years, which is consistent with the Company’s wastewater depreciation rate. *Id.* at 15. Additionally, the Company has included the legal costs incurred to litigate Cause No. 45389 ($258,319) as a deferred O&M expense amortized over three years. *Id.* Similarly, Mr. Dickson testified CUII is proposing recovery of its engineering and legal costs incurred in pursuit of preapproval of its wastewater projects over a 40-year period and over a 3-year period, respectively. *Id.* at 11-12. Mr. Dickson stated that the 40-year life matches the authorized depreciation life of CUII’s sewer assets (2.5% annual depreciation) and the 3-year period is more reflective of the expected duration between rate cases. *Id.* at 14-15. He testified recovery of these costs will make CUII’s shareholders whole, over time, for the engineering and legal costs CUII had already paid for up until the ruling in those preapproval proceedings and will enable CUII’s shareholders an opportunity a return of, but not on, these expenses. *Id.* at 15-16.

Mr. Lubertozzi testified that the engineering costs relate to both the Collection System Improvement Projects (“CSIP”) and the Wastewater Treatment Plant Projects (“WTPP”). Pet. Exh. No. 1 at 15. When interest during construction and capitalized time are included, the Company incurred $367,000 related to the CSIP and $1,233,000 related to the WTPP. *Id.* Before interest during construction and capitalized time, a total of approximately $318,525 was spent for engineering and design of the CSIP. *Id.* at 16. The $318,525 includes costs related to utility locates and geotechnical engineering to supplement the design efforts, and engineering. *Id.* at 15. The engineering included design of upgrades at three lift stations (LS B, LS C, LS D) and construction of new forcemain for all three lift stations. *Id.* Permitting efforts were initiated during design. *Id.* Complete plans, specifications, and bidding documents were prepared. *Id.* Bids were solicited for the project. These bids were used in the pre-approval process. *Id.* Before interest during construction and capitalized time, a total of approximately $1,100,289 was spent for engineering and design of the WWTP. *Id.* at 16.The $1,100,289 includes costs related to utility locates, geotechnical engineering, sampling, electrical equipment to supplement the design efforts engineering in support of the pre-approval process, including preparation of reports, and design engineering. *Id.* The engineering included design of the wastewater treatment plant expansion, including a new headworks, a new oxidation ditch, two new clarifiers, a new sludge building with equipment, a new operations building, and repurposing of several existing structures to support the new treatment processes. *Id.* Permitting efforts were initiated during design. *Id.* Complete plans, specifications, and bidding documents were prepared. *Id.* Bids were solicited for the project. These bids were used in the pre-approval process. *Id.*

Mr. Lubertozzi explained that the Company incurred these costs in response to the Commission’s Order in Cause No. 44724. *Id.* In Cause No. 44724, the Commission found, among other items, that CUII was required to “Develop and Implement a System Improvement Plan (SIP) focused on Three Key Aspects of Service Quality for Petitioner’s Water and Wastewater System.” The Three Key Aspects included the following: (1) decrease total incidences of wastewater backups in homes, (2) decrease total incidences of manhole overflows, and (3) decrease total complaints of discoloration of drinking water. *Id.* The Commission provided additional guidance on page 76 in Cause No. 44724:

Additionally, Petitioner shall propose capital investments that require Commission approvals and suggested timetables for the filings and approvals. For proposed significant capital investments, Petitioner shall provide proper documentation of engineering studies and detailed competitive bids from contractors to support Petitioner’s proposals.

## Mr. Lubertozzi expressed the view that these engineering costs were incurred in compliance with Commission directives and, as such, they should be eligible for recovery in this rate case. *Id.* at 17.

### OUCC’s Evidence. OUCC witness Margaret Stull did not accept Community’s proposed recovery of either legal or engineering costs. *Id.* at 55-59. She noted that in Cause No. 45389, the Commission did not approve recovery of those costs. *Id.* at 55. Instead, the Commission stated that “the incurrence of such regulatory costs *may* be reasonable and may be include for consideration as O&M expenses in CUII’s next rate case.” *Id.* (emphasis added).She also stated that there is no precedent for utilities to recover past legal expenses for proceedings that sought pre-approval for construction, especially if the projects were denied by the Commission. *Id.* at 57. Further, she stated that the purpose of pre-approval filings is to reduce the risk to shareholders that an investment will be disallowed, and consequently, the costs of these filings should be borne by the shareholders. *Id.* With regard to the 45389 engineering costs, Ms. Stull further testified that recovery of these costs is not reasonable because the Commission’s denial of the projects resulted in no “used and useful” asset from these expenditures. *Id.* at 59. Additionally, she stated that the Commission did not direct the Company to incur these costs. *Id.*

### LOFS’ Evidence. LOFS witnesses Gary VerDouw and Robert Holden testified that Community’s engineering costs incurred in connection with the wastewater preapproval case (Cause No. 45389) should be disallowed because the projects were not approved. LOFS Exh. No. 2 at 34 and LOFS Exh. No. 3 at 6-7. In addition, Mr. VerDouw testified that the Commission should scrutinize the legal costs incurred by Community in both Cause Nos. 45389 and 45342 and only allow recovery of appropriate costs. LOFS Exh. No. 2 at 35.

### Petitioner’s Rebuttal. Mr. Lubertozzi testified in rebuttal about the unique history behind CUII’s incurrence of these engineering and legal expenses. Pet Exh. No. 1-R, at 5. He explained that, in CUII’s last rate case (Cause No. 44724), the Commission directed CUII to develop a system improvement plan (“SIP”) to address two wastewater goals:[[16]](#footnote-17) (1) decrease the total number of incidences of wastewater backups in homes; and (2) decrease the total number of incidences of manhole overflows. *Id*. The Commission directed that this SIP be supported with detailed plans, including descriptions of the activities, measurable outcomes, cost-benefit analyses, and timelines. *Id*. Additionally, the Commission directed that CUII propose capital investments that require Commission approvals and suggested timetables for the filings and approvals. *Id*. Further, for proposed significant capital investments, the Commission directed that CUII provide proper documentation of engineering studies and detailed competitive bids from contractors to support its proposals. *Id*.

Mr. Lubertozzi testified that in response to this directive, CUII developed the proposed CSIP and the proposed wastewater treatment plant improvement plan (WWTPIP), which were included as part of the SIP presented to the Commission in Cause No. 45389. Pet Exh. No. 1-R, at 6. Mr. Lubertozzi stated that in order to meet the detailed requirements set out by the Commission in the 44724 Order, CUII had to engage outside engineering assistance. *Id*. RHMG was selected as the design engineer for the CSIP. *Id*. The design kick-off meeting was held on February 1, 2019. *Id*. Baxter & Woodman was selected as the design engineer for the WWTPIP, and the design kick-off meeting was held on February 4, 2019. *Id*. This outside engineering assistance cost CUII $1,418,814 in direct engineering and associated costs (i.e., before cap time and interest), $1,073,256 for Baxter & Woodman and $299,304 for RHMG. *Id*. With cap time and interest during construction, the total engineering costs are $1,599,811. *Id*.

Mr. Lubertozzi emphasized that, beginning in 2018, and continuing through Cause No. 45389 pre-approval proceeding, CUII regularly communicated with and updated the OUCC, LOFS, and the Commission with respect to its proposals for meeting the requirements of the Commission’s order in Cause No. 44724, including the proposed projects, the estimated costs of such projects, the schedule for such projects, the competitive bidding processes for the projects, the retention of engineering design firms to assist with the development of the projects, the costs being incurred, and more. Pet. Exh. No. 1-R, at 6. Mr. Lubertozzi gave numerous examples of this regular communication and reporting:

* In its Q2 2018 filing with the Commission entitled “Recommended System Improvement Plan,” dated July 31, 2018, CUII first presented to the Commission and the parties its draft System Improvement Plan. In this plan, among other things, CUII outlined the proposed projects along with their estimated costs and schedule. Included in this filing were the engineering studies used to develop the proposal and detailed competitive bids from contractors. The competitive bids and engineering proposals included a proposal from RHMG Engineers, Inc., which we ultimately as the design engineer for the CSIP. *See* Attachment SL-R1; Pet Exh. No. 1-R, at 6-7.
* In August 2018, CUII submitted to the Commission and parties a technical conference agenda, for a technical conference that was held on August 15, 2018. As the agenda reflects, discussed at the technical conference was the recommended implementation of the System Improvement Plan. Included with the agenda was a list of the proposed projects, including estimated costs and schedule. *See* Attachment SL-R2; Pet Exh. No. 1-R, at 7.
* The minutes from the August 2018 technical conference, filed with the Commission and parties on December 3, 2018, discuss the proposed expansion of the wastewater collection system and the headworks project, among other items. These minutes also reflect that CUII had worked with qualified engineering firms to generate, evaluate and select alternatives that would address the key aspects of service quality identified in the Commission’s 44724 Order. *See* Attachment SL-R3; Pet Exh. No. 1-R, at 7.
* In a docket entry dated August 22, 2018 (which noted that it did not constitute pre-approval of the proposed capital investments), the Commission Staff provided written recommendations regarding CUII’s proposed System Improvement Plan. These comments included a recommendation to continue to evolve CUII’s capital planning efforts as better information becomes available through CUII’s asset management program, and a recommendation to provide a status update with each of CUII’s quarterly reports to the Commission. *See* Attachment SL-R4. CUII followed this recommendation and provided status updates in each quarterly report filed thereafter. Pet Exh. No. 1-R, at 7.
* In October 2018, CUII filed with the Commission an update to its recommended System Improvement Plan. This update included a list of projects along with estimated costs and proposed schedule. This update also discussed CUII’s proposal to expand its wastewater collection system, specifically force mains, lift station upgrades, and expansion of gravity sewers. This update discussed the proposed expansion of the central wastewater treatment plant, including the headworks project, associated SCADA and electrical improvements, etc. *See* Attachment SL-R5; Pet Exh. No. 1-R, at 7.
* In November 2018, CUII filed with the Commission an agenda, proposals summary, and budget and schedule chart for the technical conference scheduled for December 4, 2018. Among the agenda items were Evaluation and Planned Improvements of Wastewater Treatment System – engineering bid review and selection process. Also included on the agenda was Cost and Schedule of Projects and Programs – timing and cost modifications, and timeline and considerations for filing and approval of projects under Indiana Code 8-1-2-23. *See* Attachment SL-R6; Pet Exh. No. 1-R, at 7.
* On March 28, 2019, CUII submitted another agenda, proposals summary and budget and schedule chart for an upcoming technical conference (scheduled for April 2, 2019). *See* Attachment SL-R7. On April 9, 2019, CUII submitted minutes from the April 2019 technical conference. *See* Attachment SL-R8. These minutes reflect, among other things, that RHMG was picked for the design for the collection system expansion project, and that they had started the flow monitoring a few weeks prior. Further, the minutes indicate that 50 percent of the engineering design was expected by July 2019, with the final design expected in November,2019 and bidding in January 2020. The minutes also reflect that CUII had engaged Baxter & Woodman to complete the evaluation and planned improvements of the wastewater treatment system, and that CUII planned to bid the project in March or April of 2020. Pet Exh. No. 1-R, at 8.
* Minutes from the October 2019 technical conference, filed with the Commission on November 12, 2019, indicate that the October 2019 technical conference focused on the wastewater treatment plant expansion and the collection system improvement project. *See* Attachment SL-R9. The minutes also reflect that CUII had recently held its 60 percent design meetings and that the engineers were at that point close to 65 percent or 70 percent design. Regarding the collection system improvement project, the minutes reflect that CUII indicated that 90 percent design was expected in October/November of 2019 with the final design planned for November 2019. These minutes also reflect that in a call held on October 25, 2019, it was expressed to CUII that the LOFS had “grave concerns” regarding these two wastewater projects. After hearing this, parties decided that in an effort to move to a more collaborative approach, the parties would meet outside of the technical conferences to discuss the wastewater treatment plant expansion project and the collection system improvement project. Pet Exh. No. 1-R, at 8.
* In April of 2020, CUII submitted an updated project estimated cost and schedule chart to the Commission for, among other things, the wastewater treatment plant expansion project and the wastewater collection system project. *See* Attachment SL-R10. Additionally, updated project estimated cost and schedule charts were filed with the Commission in July of 2020 and October of 2020. *See* Attachments SL-R11 and SL-R12. These budget updates reflected costs that had been incurred, were being incurred, and projected to incur for these and other projects. Pet Exh. No. 1-R, at 8.

Mr. Lubertozzi testified that in June of 2020, these two projects were presented to the Commission in Cause No. 45389, a construction pre-approval case. Pet Exh. No. 1-R, at 8. He noted that while it was CUII’s decision to present the projects in a pre-approval case, the Commission made clear in its 44724 Order that the projects were required to be proposed to the Commission in some type of proceeding for its approval, accompanied by engineering studies and competitive bids. *Id*. at 8-9.

In summary, Mr. Lubertozzi concluded, the history behind these engineering costs demonstrates that: (1) in Cause No. 44724 the Commission directed CUII to prepare the SIP; (2) CUII could not have complied with the Commission’s Order 44724 requirements without the outside engineering costs it incurred; (3) beginning in 2018 and continuing up until and throughout the 45389 pre-approval proceeding, CUII frequently informed OUCC, LOFS, and Commission Staff about the engineering costs it was incurring, as well as the CSIP and the WWTPIP – and CUII relied upon this history in incurring the engineering costs. Pet Exh. No. 1-R, at 9. For these reasons, he stated, CUII continues to believe that recovery of these engineering costs in rates is reasonable and should be authorized. *Id*.

### Petitioner’s witness Andrew Dickson’s rebuttal testimony included corrections to Community’s wastewater preapproval engineering and legal expenses. Pet. Exh. 4-R at 42-43. Mr. Dickson testified that Petitioner has updated its workpaper wp-k in Attachment AD-R04 to reflect the most up-to-date level of costs incurred in association with each initiative: $367,089 in costs are associated with engineering for the collection system project, and $1,232,722 in association with the wastewater treatment plant project. Pet Exh. No. 4-R, at 39. Community maintains that it should be allowed recovery of these expenses, over the course of 40 years, with the legal costs incurred ($176,144 in association with the iron filter replacement project, $125,924 in association with the collection system project, and $132,395 in association with the wastewater treatment plant project) recovered over a 3-year period. *Id*.

### Commission Discussion and Findings. The dispute here centers around whether recovery of engineering and legal costs incurred by CUII in connection with the wastewater preapproval proceeding in Cause No. 45389 is reasonable, given that the Commission did not preapprove the wastewater projects proposed by the Company in that case. CUII argues that incurrence of these costs was not imprudent. The OUCC and LOFS object to the recovery of the costs in part because they are connected to projects which were not approved by the Commission.

### The recovery of costs incurred with engineering and construction of projects is typically addressed at the time that a utility seeks approval through a certificate of public convenience and necessity (“CPCN”). At that time the Commission reviews a utility’s evidence to determine whether the proposed project is reasonable and prudent, and whether the costs associated with it are acceptable, using standards such as the class of a given estimate and what other utilities are paying for the same commodity or project. If approved, the engineering and construction costs are part of the Commission’s granting of the CPCN.

### There is no precedent for the Commission to grant recovery for costs expended in pursuit of a project that we ultimately deny. CUII’s pursuit of these costs in rates ignores the fact that we rejected the project as not in the best interest of the utility and its customers. CUII has (and its predecessor entities had) a history that led to this Commission imposing oversight in Cause No. 44724 to ensure that CUII took steps to address its long running problems with I&I and basement backups, among other things. The fact that we required CUII to apply for approval of projects was a reflection of our concern that oversight and review was needed to ensure that CUII’s customers were well-served. However, requiring that a utility apply for project approval is not a guarantee that the project will be approved, or that cost recovery will be assured if we determine that the project is not in the utility’s best interests.

It is true that engineering and legal costs are normal, ongoing expenses incurred by utilities, and some of these costs incurred will relate to projects that are not pursued or approved by regulators. Our findings in Cause No. 44724 directed CUII to create a master plan to decrease total incidences of wastewater backups in homes and manhole overflows through a comprehensive I&I program and a multi-faceted program to decrease incidences of discolored water. We required detailed plans including:

descriptions of the activities, measurable outcomes, cost-benefit analyses, and timelines. Additionally, Petitioner shall propose capital investments that require Commission approvals and suggested timetables for the filings and approvals. For proposed significant capital investments, Petitioner shall provide proper documentation of engineering studies and detailed competitive bids from contractors to support Petitioner’s proposals.

Cause No. 44724, Final Order, p. 76.

Notably, when we mandated that CUII take these steps, it was to ensure that CUII remedy long-standing problems. In other words, we were admonishing CUII because of its failure to maintain expected utility standards. CUII followed our directive, prepared a SIP, regularly communicated about the status of its planning with the Commission, the OUCC, and LOFS, and presented its proposed wastewater SIP to the Commission in Cause No. 45389. However, once we reviewed the plan, we rejected it.

The process of technical workshops was not a contested process in which other parties could review and analyze CUII’s proposals, as the materials were regularly provided to the OUCC, LOFS and the Commission right before the workshops in question. There was no opportunity for responsive pleadings. CUII notes that the OUCC and LOFS raised no objection to the plans or the costs being incurred until the engineering costs were almost complete. However, the OUCC and LOFS *did* object, and continued to do so throughout the litigation of Cause No. 45389.

Recovery of legal expenses for utility proceedings is not the norm, with the exception of rate cases, and even these we have found cause to limit. *In re Switzerland Co. Gas*, Cause No. 45117 (Ind. Util. Regul. Comm’n Apr. 17, 2019). Inclusion of costs for other regulatory proceedings has never been considered an appropriate inclusion in rates, for a number of reasons. From the perspective of a revenue requirement, costs for past proceedings are non-recurring expenses. Further, as the Indiana Supreme Court has recently made clear, recovery of previously-incurred costs absent prior approval constitutes retroactive ratemaking. *Ind. Off. of Util. Consumer Couns. v. Duke Energy Ind., LLC,* 183 N.E3d 266 (Ind. 2022), *recon. den*.; *see also*, I.C. § 8-1-2-68. In this case, CUII seeks to recover a cost incurred under prior rates (Cause No. 44724) for which it has not received prior approval. If a project is denied, then the Commission has made a determination that it is not a prudent use of a utility’s funds. Further, legal expenses and engineering do not add to utility plant, meaning that there is no “used and useful” property to include in rate base. I.C. § 8-1-2-6. Requesting rate recovery of the costs to bring an unsuccessful action is not in Commission precedent, and we decline to make it so.

### We therefore deny Community’s request to recover its engineering and legal costs stemming from our Orders in Cause Nos. 44724, 45389, and 45342.

## **Rate Case Expense.**

### Petitioner’s Evidence. Petitioner witness James Kilbane testified that Petitioner’s total forecasted rate case expense for this proceeding was $353,213, including (i) $300,000 in legal expenses; (ii) $32,500 in Minimum Standard Filing Requirements (“MSFR”) preparation support; (iii) $10,000 in ROE analysis support; (iv) $6,459 for travel expenses; and (v) $4,254 for customer notifications. Pet. Exh. No. 6 at 2; *see* Attachment JK-1. Mr. Kilbane stated the estimated legal expenses are supported by an estimate provided by Petitioner’s attorney, which is based on their experience in representing utilities and the issues involved in this proceeding. *Id.* at 3; *see* Attachment JK-2. Mr. Kilbane explained the MSFR preparation support costs are based on Petitioner’s agreement with ScottMadden consultants. *Id.*; *see* Attachment JK-3. He stated the ROE analysis support represents the costs incurred before Petitioner and the OUCC entered into a settlement agreement as to an appropriate ROE. Mr. Kilbane explained travel costs were based on the expected transportation cost and hotel cost of each witness expected to attend the evidentiary hearing and assumed a two-day hearing. Mr. Kilbane stated notice costs were based on current postage rates and Petitioner used the same paper stock cost as was used in Petitioner’s last rate case*.* *Id*. Mr. Kilbane stated Petitioner is proposing an amortization period of three years because Petitioner expects that period to be in line with the timing of rate case filings in future years. He explained this case is being filed approximately four years after the Order was issued in Petitioner’s last rate case because of the requested pre-approval cases filed and because Petitioner did not want to file a rate case during the COVID-19 pandemic. Mr. Kilbane testified Petitioner anticipates filing rate cases on a much more regular schedule. *Id*. at 5. Community proposes annual rate case amortization expense of $117,738, with $70,944 allocated to water operations and $46,794 allocated to wastewater operations. *See* Attachment JK-1.

### OUCC’s Evidence**.** OUCC witness Margaret Stull recommended $318,807 in rate case costs to be amortized over five years, resulting in annual rate case expense of $63,761. Of this amount, $38,420 is charged to water operations and $25,341 is charged to wastewater operations. Pub. Exh. No. 1 at 66; *see* OUCC Schedule 5, Adjustment No. 8. Ms. Stull accepted Community’s estimated legal fees ($300,000), customer notice expense ($4,254), cost of equity consultant ($10,000), and other miscellaneous costs ($1,000). *Id.* She testified, however, that she disagreed with Community’s estimated travel costs and with the outside consultant fees related to preparing the filings made in accordance with the MSFRs by ScottMadden consultants.Specifically, Ms. Stull recommended travel costs be reduced from $6,459 to $4,553, to reflect one less internal witness in Community’s case-in-chief (due to the adoption of Mr. Guttormsen’s testimony by Mr. Dickson) and that, since the ROE has been settled among the parties, an outside ROE witness will not need to travel to the hearings. *Id.* at 66-67. Additionally, Ms. Stull recommended elimination of the outside consultant MSFR costs because the alleged work performed on the MSFR workpapers was not necessary or prudent, especially considering how deficient these workpapers were. *Id*. at 67; *see* Commission Docket Entry issued February 10, 2022.

### Regarding the appropriate amortization period, Ms. Stull noted Petitioner’s last rate case was filed in December 2015 and the current case was filed six years later in December 2021. She recommended a five-year amortization period as a better estimate of the life of the rates being set in this case, rather than the three-year period proposed by Community. Ms. Stull explained that using an amortization period that is too short can lead to over-collection of rate case costs and imposes an unfair burden on ratepayers. She noted that in Cause No. 44724, rate case costs were amortized over only four years, allowing Community to recover over $200,000[[17]](#footnote-18) of rate case costs that were not approved. Ms. Stull explained that her recommendation of a five-year amortization period would minimize any over-recovery of these costs while also allowing Community to recover its costs in a reasonable period of time. *Id.* at 67-68.

### Petitioner’s Rebuttal. Mr. Kilbane provided an updated estimate of Community’s rate case expense, increasing its proposed rate case costs by $47,067 from $353,213 to $400,280[[18]](#footnote-19), reflecting the cost of additional rebuttal witnesses added to this case. Pet. Exh. No. 6-R, p. 2. Mr. Kilbane explained the increase in estimated rate case costs was due to (1) the hearing is now scheduled for two separate dates, which will require two trips to Indianapolis for some witnesses, and (2) Community engaged the engineering firm of Baxter and Woodman to provide rebuttal testimony on several wastewater issues. *Id*. at 3. Mr. Kilbane agreed with Ms. Stull’s recommended reductions to travel costs but asserted that the non-sequential hearing dates will increase travel costs. He stated the updated travel cost estimate is $6,159, less than the initial estimate of $6,459. Id. at 3-4. Mr. Kilbane disagreed with Ms. Stull’s recommendation regarding the exclusion of consultant fees for MSFR workpaper preparation and opined these costs are reasonable and prudent and should be recoverable. Mr. Kilbane further explained that Community needed to bring in three additional witnesses from Baxter and Woodman ($50,000) to respond to Mr. Parks’ testimony. to a five-year amortization period. *Id.* at 4 – 5; *see* Attachment JK-R1. Finally, Mr. Kilbane disagreed with Ms. Stull’s recommended five -year amortization period for rate case costs and reiterated the reasons for Community’s proposed three-year amortization period. *Id.* at 5.

### Commission Discussion and Findings. We find Petitioner’s proposed $400,280 of rate case costs should be recovered in rates. With respect to the period over which the rate case expense may be collected, we note that Petitioner’s current rates were set on January 24, 2018. We also note this order was issued roughly five years thereafter. We agree with the OUCC that five years should be considered a good estimate based on past practice of the time within which Petitioner will be collecting rates designed to recover its rate case expense authorized in this Cause. Accordingly, we authorize a *pro forma* revenue requirement of $80,056 per year.

However, if Petitioner should file its next rate case sooner than four years from the date of this order, which would result in a prospective life of rates shorter than five years from the date of this order, Petitioner will not have secured the collection of its rate case expense during the life of these rates. In such future rate case, we would consider a mechanism to allow Petitioner to secure the unmet balance of the rate case expense authorized in this case. By the same token, no more than five years from the date of this order, unless Petitioner has secured a new rate order, Petitioner shall file an amended tariff removing from its revenue requirement the *pro forma* rate case expense of $80,056 authorized herein. This reduction in rates should occur regardless of whether Petitioner has pending rate case.

## **Regulatory Expense.**

### Petitioner’s Evidence. Petitioner witness Andrew Dickson testified that Community has identified an annual level of expense related to its rate adjustment mechanisms (DSIC, SSIC, and WT), related to the legal fees required to complete those filings. Pet. Exh. No. 4 at 15. Mr. Dickson testified Community will be making investments that will be eligible for recovery through its DSIC and SSIC mechanisms and anticipates modifications to its purchased water rate that will necessitate filing of its WT mechanism as well. *Id.* Mr. Dickson stated Community’s expected annual level of expense for these filings has been included in this *pro forma* adjustment. Community estimated $25,000 per year for the following regulatory expenses: (1) $5,000 to file two annual water trackers per year; (2) $10,000 to file one DSIC per year; and (3) $10,000 to file one SSIC per year. These expenses are allocated $15,000 to water operations and $10,000 to wastewater operations. *Id; see* Attachment AD-3, wp-l.

### OUCC’s Evidence**.** OUCC witness Margaret Stull did not accept Community’s assumptions regarding either the frequency with which Community estimates it will file these cases or the costs Community projects. Ms. Stull recommended no regulatory expense be included in *pro forma* general operating expenses. Pub. Exh. No. 1 at 68. Regarding capital trackers, Ms. Stull stated Community provided no evidence to support its proposal, as it provided no support for how it projected the frequency or cost of these filings. She noted that Community has filed no DSIC or other capital tracker filings since Cause No. 44724 (2015). *Id.* at 68 – 69.

### Regarding water tracker filings, Ms.Stull stated that a review of prior water tracker filings submitted by Community reveals that it files its own water trackers with the Commission rather than using a consultant or law firm to file on its behalf. Ms. Stull explained there are no additional costs to be recovered when a water tracker filing is submitted as all the costs of internal labor that would be needed to prepare these filings is already being recovered in this rate case through operating expenses or through capitalized labor included in rate base. Ms. Stull noted that Community has only filed one water tracker since its last rate order was issued in 2017, not two trackers per year as Petitioner has projected for purposes of this revenue requirement. Ms. Stull considered it unlikely Community would experience more than one rate increase per year from its wholesale water provider, Indiana American Water Inc. (“IAWC”). She explained that IAWC cannot submit more than one DSIC in any given year. *Id.* at 69.

### Petitioner’s Rebuttal. Mr. Dickson asserted that Community has historically experienced frequent changes in rates from Indiana American. He stated that Community experienced a change on March 14, 2018, May 10, 2018, July 4, 2018, April 12, 2019, and July 1, 2019 (30-day filing #50324), which equates to an average of 2.5 rate changes per year, for each of which Community is expected to file a water tracker within 30 days. Mr. Dickson asserted Community’s forecast of two water tracker filings per year is conservative and reasonable, given the historical frequency of rate changes that it has experienced. Pet. Exh. No. 4-R, at 36.

Mr. Dickson also testified that while Community files its own water trackers, it still requires the use of a minimal amount of outside legal counsel assistance. *Id.* at 37. He stated that this assistance helps Community achieve accurate and efficient filings. He concluded that $2,500 in expense to consult with CUII’s legal team to ensure accurate and efficient filings is reasonable. *Id*. at 37.

Mr. Dickson noted that Community has agreed not to file a purchased water tracker to track costs already included in its purchase water expense but should not be impeded from filing the necessary water trackers to recover purchased water costs not reflected in this case. *Id*. He pointed out that Ms. Stull’s denial of regulatory costs associated with such filings stands in contradiction to her argument surrounding cost escalation factors in Community’s purchased water cost: either Community should escalate its purchased water costs, as it did in its direct filing, or a regulatory expense forecast for assistance with water tracker filings should be acceptable. *Id*. at 37-38. Mr. Dickson asserts that regulatory expense for water trackers must be included for the rate changes Community will experience. *Id*. at 38.

### While Ms. Stull further disputes Community’s forecast of one DSIC and one SSIC filing per year, citing the lack of such filings since Community’s last rate case (Cause 44724), Mr. Dickson testified that Community has specific SCIP (sewer capital improvement project) and watermain replacement projects scheduled for each year, which have been alluded to throughout testimony. *Id.* at 38. These projects generally involve activity recoverable through these DSIC and SSIC mechanisms, and Mr. Dickson stated that Community intends to seek recovery of those projects through these mechanisms to reduce the frequency for full rate cases and their associated rate case expense. He stated that should CUII’s request for recovery of the reasonable $10,000 per DSIC or SSIC filing be denied, it will only serve to expedite the frequency at which Community must file rate cases, which are an order of magnitude larger than Community’s forecasted regulatory costs for these mechanisms. Finally, Mr. Dickson testified that Community’s estimation of costs related to these filings has been provided by its legal counsel, whose experience with such filings has driven its estimation. Community maintains that the annual expense related to two water tracker filings, one DSIC filing, and one SSIC filing is reflective of its best forecast of the frequency of filing for these mechanisms, the costs associated with each, and provides the best cost savings available to Community (and ultimately, Community customers). Id. at 38-39.

### Commission Discussion and Findings. Whether relying on an historical or forward-looking test period, the Commission’s function in rate making includes anticipating a utility’s actual reasonable operating expenses. While past practices do not guarantee future events, they are instructive and useful to our evaluation of a public utility’s predictions. Community asks us to authorize it to collect from its ratepayers as a *pro forma* annual revenue requirement $25,000 to file two annual water trackers per year, one DSIC per year, and one SSIC per year. As the OUCC noted, Petitioner has filed only one water tracker since its last rate order was issued in January of 2018. Petitioner’s history demonstrates it has not availed itself of the various capital and purchased water tracker mechanisms available to it, and there is no reason to conclude it will do so in the future. The statutes, rules and processes by which Petitioner would submit itself to the Commission’s jurisdiction have not changed materially since Petitioner’s last rate order. And we see no reason to prefund regulatory forays inconsistent with Petitioner’s history. Ratepayers should not be required to pay higher rates to secure services that we do not find are not likely to be secured and are entirely within the discretion of Petitioner. Therefore, we find no regulatory expense should be included in Petitioner’s revenue requirement for these potential future tracker filings.

## **Depreciation Expense.**

### Petitioner’s Evidence. Petitioner witness Robert Guttormsen[[19]](#footnote-20) testified concerning forecasted depreciation expense. Mr. Guttormsen stated Community is proposing to use the composite depreciation rates of 2% for water plant and 2.5% for sewer plant - the Commission’s composite rates for water and wastewater utilities in Indiana. Pet. Exh. No. 5 at 10. Mr. Guttormsen testified that depreciation and amortization expense were determined by multiplying the composite depreciation rates by forecasted gross plant in service. He noted that forecasted projects, general capital spending, and capitalized time are all included in the calculation of annualized depreciation and amortization. He stated that increases in depreciation expense from Cause No. 44724 to the base year and the forecasted test year are a direct result of actual and planned capital infrastructure necessary to continue to provide safe and reliable water and wastewater service to Indiana customers. *Id.* Mr. Guttormsen testified that adjustments were made to reflect Community’s restatement of the plant balances for computers and vehicles (i.e., short-lived assets that are in service but have no book value), producing a level of accumulated depreciation that matches that allowed by these composite rates. He explained these short-lived assets are held on an affiliate’s books and depreciated over approximately eight years and five years for computers and vehicles, respectively. *Id.* at 11.He added that the Commission’s authorized composite depreciation rates depreciate all assets over 50 years for water divisions and 40 years for wastewater divisions for ratemaking purposes, and Community cannot adjust the depreciation rates for assets which are not held on its books. *Id.* Accordingly, Mr. Guttormsen recommended that Community again be allowed to reestablish plant values for these short-lived assets as was approved in Cause No. 44724. *Id.*

### To that end, Community proposed an $81,319 increase to base period depreciation expense of $320,676, resulting in *pro forma* Phase 1 depreciation expense of $948,347. Phase I depreciation expense of $401,905 is charged to water operations, and $546,352 is charged to wastewater operations. Community proposed a $320,642 increase to Phase I depreciation expense, resulting in *pro forma* Phase II depreciation expense of $1,268,989. Phase II depreciation expense is charged $639,251 to water operations and $629,738 to wastewater operations. *See* Attachment AD-01, Schedule B.

### OUCC’s Evidence. OUCC witness Margaret Stull accepted Community’s methodology for calculating its depreciation expense. However, she applied this methodology to the OUCC’s recommended utility plant in service for water and wastewater operations. Ms. Stull recommended *pro forma* depreciation expense of $908,165 in Phase I, charged $387,421 to water operations and $520,744 to wastewater operations. Ms. Stull recommended pro *forma* depreciation expense of $933,914 in Phase II, charged $410,485 to water operations and $523,429 to wastewater operations. Pub. Ex. No. 1 at 70 – 71.

### Petitioner’s Rebuttal. Mr. Dickson testified Community updated its plant in service in its rebuttal position and accordingly its depreciation expense calculation. Pet. Exh. No. 4-Rat 42; *see* Attachment AD-R04, workpaper wp-p3. Mr. Dickson also noted that Community found a reference error in its Phase II water depreciation expense, thus its direct case Phase II water depreciation was overstated. Mr. Dickson stated Community’s Phase I depreciation expense is $890,887 ($374,366 water, $516,521 sewer) and Phase II depreciation expense is $1,059,571 ($424,622 water, $634,950 sewer). *Id.* at 42 - 43.

### Commission Discussion and Findings. While there are differences in the parties’ calculations of depreciation expense, those differences stem from differences in rate base, rather than differences in methodology. Based on our findings above regarding depreciable utility plant in service and using the Commission’s composite depreciation rates, the Commission finds the following depreciation expense to be reasonable, subject to the rate phase-in process discussed herein.

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## **Payroll Tax Expense.**

### Petitioner’s Evidence. Petitioner witness Andrew Dickson testified Community forecasts a material change in its salary and wage expense resulting in elevated payroll tax expense going from the base period to the linking period. Community applied a 7.65% payroll tax rate to its total *pro forma* salaries and wages expense. This tax rate includes 6.2% for FICA and 1.45% for Medicare. In total, Community proposes a $44,880 increase to base period payroll tax expense of $59,113, resulting in *pro forma* payroll tax expense of $103,992. Of this amount, $62,661 is charged to water operations and $41,331 is charged to wastewater operations. Pet. Exh. 4 at 41; see Attachment AD-01 and AD-03 and workpaper wp-o.

### OUCC’s Evidence. OUCC witness Margaret Stull accepted Community’s methodology for calculating *pro forma* payroll tax expense. However, Ms. Stull’s recommended payroll tax expense differs because her recommended salaries and wage expense differs from that proposed by Community. Ms. Stull recommended an $18,527 increase to base period payroll tax expense, resulting in pro forma expense of $77,640. Of this amount, $46,786 is charged to water operations and $30,854 is charged to wastewater operations. Pub. Exh. No. 1 at 72 – 73; *see* CONFIDENTIAL OUCC Attachment MAS-6 and OUCC Schedule 6, Adjustment No. 12.

### Petitioner’s Rebuttal. Mr. Dickson noted that Ms. Stull agrees with the methodology for calculating payroll taxes and explained that CUII applied this same methodology to its rebuttal level of salaries and wage expense. Mr. Dickson added the only cause for difference between the OUCC’s and CUII’s positions with respect to Payroll Tax Expense is their different proposed Salary and Wages expense . Pet Exh. No. 7-R, at 44.

### Commission Discussion and Findings. We note that the parties agree on the methodology for calculating payroll tax expense, including the tax rates to be applied. Therefore, based on our salary and wage expense findings above, we find that $77,640 of payroll tax expense should be included in Petitioner’s revenue requirement in this case. Of this amount, $46,786 is charged to water operations and $30,854 is charged to wastewater operations.

## **Property Tax Expense.**

### Petitioner’s Evidence. Mr. Dickson testified that CUII’s forecasted property tax expense is based on the most recent historical property tax data, which was then adjusted to reflect projected property tax rates and forecasted plant in service. Specifically, Community calculated its effective property tax rate by dividing base year property tax expense by the September 30, 2021 balance in utility plant in service. This resulted in an effective 0.44% water property tax rate and an effective 0.23% wastewater property tax rate. As reflected in workpaper wp-o, Community proposed pro forma Phase 1 property tax expense of $137,780, of which $87,880 was charged to water operations and $49,900 was charged to wastewater operations. For Phase II, Community proposed pro forma property tax expense of $150,410, of which $92,924 was charged to water operations and $57,486 was charged to wastewater operations. Pet. Exh. 4 at 40; See Attachment AD-1 and AD-3 and workpaper wp-o.

### OUCC’s Evidence. OUCC witness Margaret Stull disagreed with Community’s proposed property tax expense. She testified property tax expense is based on net utility plant included in rate base and that the amount of property tax expense included in rates for each phase should be consistent with the rate base included in that phase. Ms. Stull noted that Community included property tax expense that was incorrectly based on its Phase II net utility plant in service balance and concluded the inclusion of Phase II property tax expense in Phase 1 rates was incorrect. Pub. Exh. No. 1 at 74. Ms. Stull recommended Phase 1 property tax expense of $107,223, of which $79,332 is charged to water operations and $27,991 is charged to wastewater operations (OUCC Schedule 6, Adjustment No. 13). Ms. Stull recommended Phase II property tax expense of $103,735, of which $84,406 is charged to water operations and $19,329 is charged to wastewater operations (OUCC Schedule 6, Adjustment No. 14). Pet. Exh. 4 at 74 – 75.

### Petitioner’s Rebuttal. Mr. Dickson disagreed with Ms. Stull’s recommendations regarding the calculation of Phase 1 property tax expense and opined that Community is entitled to a fully forecasted level of taxes other than income (TOTI) for the 12 months ending September 30, 2023, in Phase I rates. Despite his disagreement on this point, Mr. Dickson based his proposed Phase II property tax expense on the balance of net utility plant in service at the end of the linking period. *Id.* at 43. Mr. Dickson pointed out that Ms. Stull’s workpaper (OUCC Schedule 6, Adjustment No. 14) indicates a decrease of $12.5 million dollars in CUII’s sewer Phase II plant in service, which appears to be a reference error, as it refers to Net Rate Base in Schedule 7S rather than Gross Utility Plant in Service, as do the rest of the OUCC’s property tax calculations. *Id.* at 44. With this correction, and a similar correction to the accumulated depreciation reference, the OUCC’s proposed Phase II property tax expense appears to be $112,644 ($84,406 water, $28,238 sewer), as compared to CUII’s calculated Phase II property tax expense of $150,725. *Id*.

### Commission Discussion and Findings. The parties appear to agree on both the property tax rates and the methodology for calculating property tax expense. It is unclear whether the OUCC referenced the wrong cell in its calculation of property tax expense or if it misunderstood the determination of the property tax rate used. Generally, property tax rates based on tax assessments are applied to net utility plant in service. However, Petitioner’s proposed property tax rates were calculated rather than based on property tax assessments. Therefore, because gross utility plant in service was used in the determination of the property tax rate, gross utility plant in service must necessarily be used in the calculation of *pro forma* property tax expense.

### While Petitioner has accepted Ms.Stull’s recommendation that Phase I property tax expense be based on the Phase I utility plant in service determination, Mr. Dickson has asserted that when a utility uses a forward-looking test year, income statement costs should be based on the test year. [[20]](#footnote-21) We disagree with this assertion. First, test year expenses related to rate base (i.e., depreciation expense, CIAC amortization, and property tax expense) should be synchronized with the rate base determination for that phase. Therefore, the test year expenses related to rate base (Phase I) will be based on the rate base determination as of the beginning of the forward-looking test year. Second, property taxes in Indiana are generally not payable for nearly two years after an assessment has been made. Therefore, any property taxes derived from Petitioner’s rate base as of the end of its test year will not actually be due until 2025, and Petitioner would not need to begin collecting this expense from its customers until 2024, after the end of its forward-looking test year. This fact would make Petitioner’s original proposal all the more unreasonable.

### Petitioner’s forward-looking test year is the basis on which Petitioner’s rates beginning with Phase II are to be based. To that end, for Phase II rates it will be unnecessary for Petitioner to *estimate* its *pro forma* property tax expense as Petitioner’s forward-looking test year will have been completed and its actual test year property tax expense will have been experienced and will be known. For this reason, Petitioner’s pro forma property tax expense in Phase II should be revised to reflect actual property tax expense incurred during the test year, and we so order.

### Based on our findings above regarding utility plant in service and using the property tax rates proposed by Petitioner, we find the following property tax expense adjustments to be reasonable

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## **Income Tax Expense.**

### Petitioner’s Evidence. Petitioner’s witness Andrew Dickson testified that Community’s tax department provided the appropriate state and federal income tax rates and the amortization of investment tax credit (“ITC”). Pet. Exh. No. 4 at 41. Mr. Dickson explained the income tax expense was derived in Community’s financial model for the Test Period forecast by applying statutory income tax rates to applicable taxable book income and then applying book-to-tax adjustments according to the Internal Revenue Code. Mr. Dickson stated Community’s income tax expense in the test period is forecasted to be $460,904 (Proposed Rate Consolidated Phase II). Attachment AD-01, According to Attachment AD-1, Schedule B, Community proposed the following present rate income tax expenses:

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### *Id.* at 42; Attachment AD-1 and AD-3 and Workpaper wp-g.

### OUCC’s Evidence. OUCC witness Margaret Stull testified that, other than the differences in proposed revenue and expense items, there was no difference between her calculation of federal and state income taxes and Community/s calculations. Ms. Stull recommended the following present rate income tax expenses:

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### Ms. Stull explained that excess ADIT refers to the excess accumulated deferred income taxes (“ADIT”) that resulted from the reduction of the federal income tax rate to 21% as a result of the Tax Cuts and Jobs Act of 2017. She stated the Commission found Community’s excess protected ADIT at December 31, 2017 to be $723,570 after tax gross-up. In Cause No. 45032-S20, the Commission found the appropriate amortization period for Community’s protected excess ADIT was 30 years based on the remaining life of its utility assets as of December 31, 2017. The Commission ordered Community to reduce its rates to reflect $24,119 ($723,570 / 30 years) of excess ADIT amortization. *Id.* at 76. While Community did not include this excess ADIT amortization in its case-in-chief, Ms. Stull stated she included it in her operating expenses.

### Petitioner’s Rebuttal. Mr. Dickson testified that Community has updated its income tax calculations using the same methodology, accepted by Ms. Stull, to reflect Community’s rebuttal revenue and expense items. There are otherwise no changes to its calculation of income taxes. Pet Exh. No. 4-R, at 45. Mr. Dickson also testified he agreed with Ms. Stull’s inclusion of excess ADIT amortization (-$24,119; $14,734 water, $9,385 sewer). *Id.* at 3.

### Commission Discussion and Findings. We note that the parties are in agreement regarding the treatment of excess ADIT amortization and have included in the determination of their *pro forma* operating expenses. While there are differences in the parties’ calculations of income taxes, those differences stem from differences in rate base and overall expense levels, rather than differences in methodology or tax rates. Accordingly, we find that Petitioner’s present rate income tax expense is as follows:

### 

## ***Pro Forma* Operating Expenses**. Based on the above, the Commission finds Petitioner’s *pro forma* water and wastewater operating expenses for the 12 months ended September 30, 2023, adjusted to a level which fairly represents its forecasted operations, are $2,625,934 and $2,208,578, respectively.

## 

# **Net Operating Income at Present Rates**

## **Water Utility’s Net Operating Income under Present Rates**. Based on the evidence and the determinations made above, the Commission finds Petitioner’s water utility adjusted forecasted operating results under present rates are as follows:

## 

## We further find that the net operating income available to Petitioner for return under its present rates for consolidated water utility service of $269,177 is insufficient to provide a fair return on the fair value of its properties used and useful in providing water service for the convenience of the public and is therefore unjust and unreasonable and shall be increased.

## **Wastewater Utility’s Net Operating income under Present Rates.** Based on evidence and the determinations made above, the Commission finds Petitioner’s water utility adjusted forecasted operating results under present rates are as follows:

## 

## We further find that the net operating income available to Petitioner for return under its present rates for consolidated wastewater utility service of $418,601 is insufficient to provide a fair return on the fair value of its properties used and useful in providing wastewater service for the convenience of the public and is therefore unjust and unreasonable and shall be increased.

# **Authorized Rate Increase**.

## **Water Utility.** The Commission finds Petitioner is permitted to increase its water rates and charges overall by 43.39% to produce additional operating revenue of $1,114,800, total annual operating revenues of $3,744,367, and net operating income of $1,093,972 as depicted below.

## 

## The determinations in the preceding table reflect the effect of additional revenue on federal and state income taxes, Bad Debt Expense, and the IURC Fee.

## **Wastewater Utility.** The Commission finds Petitioner is permitted to increase its wastewater rates and charges overall by 7.37% to produce additional operating revenue of $198,237, total annual operating revenues of $2,765,534, and net operating income of $552,627 as depicted below.

## 

## The determinations in the preceding table reflect the effect of additional revenue on federal and state income taxes, Bad Debt Expense, and the IURC Fee.

## **Ultimate Finding**. Based on the evidence and giving appropriate weight to the need for Petitioner to discharge its public duties, the Commission finds that the rates authorized above, subject to the rate phase-in process described herein, are just and fair and should allow Petitioner the opportunity to earn a reasonable return on its property dedicated to providing water and wastewater utility services to the public.

# **Quality of Service.**

**[Summary and discussion intentionally omitted by the OUCC.]**

# **Estimated bills.**

## **LOFS’ Evidence.**

## LOFS raised the issue of estimated bill practices by CUII. LOFS witness Rick Cleveland testified that the community is concerned with CUII’s metering proposal and its estimated billing practices. LOFS Exh. No. 1 at 3. He testified that CUII has not received Commission approval for its estimated billing procedures as required by 170 IAC 6-1-13(C), nor has CUII established good cause exists for estimating bills. *Id.* Mr. Cleveland testified that even if good cause existed, there exists one case in which a residential customer’s estimated bill was $425.65 in a single month during a period when she and her husband were out of town. *Id.* Mr. Cleveland testified that he does not believe CUII is handling estimated billing on a fair and reasonable basis and recommended the Commission order CUII to cease issuing estimated bills until it receives approval from the Commission of its estimated billing practices. *Id.*

## **Petitioner’s Rebuttal**.

## Petitioner witness Steven Lubertozzi testified that the Commission’s rules allow the use of estimated bills for good cause. Pet. Exh. No. 1-R, p. 16. He testified that over the past two years, during the COVID-19 pandemic, CUII has made use of estimated billing in order to protect the health and safety of both employees and customers. *Id.* Mr. Lubertozzi testified that estimating bills rather than exposing employees/customers to COVID-19 during a global pandemic constitutes good cause. *Id.* On redirect examination, Mr. Lubertozzi explained that approximately 90% of its meters are located inside customers’ homes; this made following up with meter non-reads problematic from a health and safety perspective for CUII customers and employees during the worst of the COVID-19 pandemic. (*See* Tr., at A-56.) Regarding the $425.65 bill, Mr. Lubertozzi testified that particular customer’s bill was estimated for nine months due to COVID and the fact that her meter was no longer sending read information. *Id.* at 17. He testified that in April 2021, her meter was exchanged and a true-up bill of $425.65 was sent, which was the difference between the actual read and the estimated read for nine months. *Id.*

## **Commission Discussion and Findings**.

## Estimated bills are permitted under 170 I.A.C. 6-1-13(C), which reads:

A water utility may estimate the bill of any customer pursuant to a billing procedure approved by the Commission or for other good cause, including, but not limited to: request of customer; inclement weather; labor or union disputes; inaccessibility of a customer's meter if the utility has made a reasonable attempt to read it; and other circumstances beyond the control of the utility, its agents and employees.

A water utility is not required to seek Commission approval prior to estimating the bill of a customer if there exists good cause. While the COVID-19 pandemic constituted good cause in this case for some estimated bills, this resulted in the one particularly egregious true-up bill of $425.65 after nine months of estimated bills. Based on the evidence of record, CUII did not offer options to the customer impacted, which we note as poor customer service. However, after considering all the relevant factors, we find CUII’s use of estimated billing practices during the COVID-19 pandemic was reasonable under the circumstances.

# **Cost of Service.**

## **Petitioner’s Evidence.**

## Mr. Dickson testified that CUII did not prepare a cost of service study for this case. He stated that the cost-of-service study presented in its last rate case (Cause No. 44724) was still relevant and added that Petitioner has relied on the same rate design foundation to produce its rate design in this case. He testified that the only divergence from Petitioner’s existing rate design is the introduction of a low-income rate, which CUII has proposed to be a residential-only rate and has designed it accordingly. He noted that this change is neutral in relation to the definition of class revenue requirements; to maintain that neutrality on a class cost of service basis, a separation of Petitioner’s residential and commercial classes is included in CUII’s proposed design in this case (for both water and wastewater).

## **LOFS’ Evidence**.

## LOFS took issue with the application of CUII’s proposed rate increase in this Cause via an across-the-board percentage increase. LOFS witness VerDouw testified that CUII’s cost of service study is almost six and a half years old and would be considered stale. He stated that CUII is requesting increases in water and wastewater rates that are driven in large increases in both capital spend and in operating expenses that would most likely change the outcome of any cost of service study done prior to those large increases in capital and expenses. He testified that the proper way to determine a rate design for CUII’s current case and recommended rate increase would be to provide an updated cost of service study to spread any proposed or actual rate increase across rate classes based on current asset and expense information.

## **Petitioner’s Rebuttal.**

## In rebuttal, Mr. Dickson testified that, given Petitioner’s size, it is reasonable to balance the cost of a new cost of service study against the benefits, particularly when Petitioner is proposing an across-the-board rate increase, as it is here. He noted that other small utilities follow a similar practice, and that the Commission’s rules permit such. *See, e.g., In the Matter of Gibson Water Authority*, Cause No. 45535 (IURC; Nov. 17, 2021); *Petition of Community Natural Gas Co., Inc*., Cause No. 45214 (IURC; Dec. 18, 2019); *In re Verified Petition of Citizens Wastewater of Westfield, LLC*, Cause No. 44835 (IURC; May 31, 2017). *See also*, 170 IAC 1-5-15(d).

## **Commission Discussion and Findings.**

# **[Commission and Discussion Finding section intentionally omitted by the OUCC]**

# 

# **Rate Design.**

Mr. Dickson testified that CUII’s only proposed rate design change is the addition of an opt-in low-income rate for its eligible residential customers. He explained that this rate functions within the framework of CUII’s proposed across-the-board increase. LOFS witness Gary VerDouw’s objected to the lack of a cost-of-service study to show the basis for the proposed change, and both OUCC and LOFS testified in opposition to CUII’s proposed low-income rate.

## **Low-Income Rate.**

### Petitioner’s Evidence. Petitioner witness Steven Lubertozzi testified that CUII is proposing a low-income rate to alleviate the impact of the proposed rate increase on its most vulnerable customers. Pet. Exh. No. 1, p. 25. He testified that the purpose of the program is to enable customers struggling economically to qualify for a lower rate that is applied to a base level of usage. *Id.* Mr. Dickson testified that the proposed rate is a residential-only rate and remains neutral in regard to class revenue requirements. Pet. Exh. No. 4, p. 19. He testified that the low-income rate would be an opt-in rate for eligible residential customers (income at or below the federal poverty level) and is designed to help support a safe and healthy community within its service areas and to help mitigate affordability concerns that CUII has for its most vulnerable customers. *Id.* at 49. Mr. Dickson provided the calculations for this rate (Schedules G and H) and testified that the result is an incremental increase in cost for low-income customers that is far lower than that of the system. *Id.* at 50; Schedule K of Attachment AD-1. He testified that a low-income customer would receive an approximate 62% discount on the volumetric portion of their bills, with a corresponding 5% increase on the rate for regular residential customers (less than $3.00 increase in the average residential water bill and less than $3.00 increase in the average residential sewer bill.) Pet. Exh. No. 4 at 52.

Petitioner witness Andrew Dickson testified that eligible customers can opt-in to the rate by submitting an application every 12 months to CUII’s third party income identifier for verification of their eligibility for the rate. *Id.* at 51. He testified that annual reverification of eligibility will ensure the long-term sustainability of the rate design for low-income customers and the regular residential customers supporting it. *Id.* at 52. Mr. Dickson testified that CUII has also limited the number of gallons that are eligible to be charged at the low-income rate to the residential class average usage, which ensures that typical usage benefits from this discounted rate but removes the discount for usage above average usage. *Id.* Mr. Dickson testified that CUII estimates 7.8% of usage in its system will be eligible for the low-income rate. *Id.*

Mr. Dickson testified that the wastewater tariff charge for general customers would be $4.565 (per 1,000 gallons) and the water tariff charge would be $4.675 (per 1,000 gallons). Attachment AD-2. Mr. Dickson testified that the low-income rate does not impact commercial customers. Pet. Exh. No. 4 at 50.

### OUCC’s Evidence. The OUCC recommended the Commission deny CUII’s request to increase the rates of regular residential customers to fund its proposed low-income rate. OUCC witness Scott Bell testified CUII’s proposal included no financial contribution from CUII shareholders, which places the cost of providing low-income customer assistance entirely on CUII’s residential customers. Pub. Exh. No. 4, pp. 2-3. He also expressed concern about the potential that CUII over-collect revenues if not enough low-income customers apply and take advantage of the low-income rate. Mr. Bell asserted that the plain language in Ind. Code § 8-1-2-46 suggests that when the Commission considers whether to approve CUII’s proposed customer assistance program, it should determine whether the program (1) “furthers the interests set forth in section .05 of this chapter” and (2) “is in the public interest.” Mr. Bell testified that Ind. Code § 8-1-2-0.5 establishes that it is the continuing policy of the State to promote utility investment in infrastructure while protecting affordability of utility service. Mr. Bell concluded that CUII’s proposed low-income rate does not protect “the affordability of utility services for present and future generations of Indiana citizens.” Publ. Exh. No. 4, p. 3. Mr. Bell also testified that although CUII’s low-income rate would make water and wastewater service more affordable to those customers that apply and qualify, it does so entirely at the expense of all other residential customers that either do not qualify or chose not to enroll. He also stated that non-participating residential customers will fund the low-income rate 100%, making their water and wastewater rates *less* affordable.

Mr. Bell testified that nothing in I.C. § 8-1-2-46(c) prohibits CUII from establishing a program relying on voluntary contributions or sources other than a revenue requirement included in rates. He also stated that nothing in I.C. § 8-1-2-46 explicitly authorizes a utility to fund a customer assistance program by creating a charge imposed on other ratepayers and pointed out that the only source of funds described in the statute is state or federal infrastructure funds. I.C. § 8-1-2-46(c). He added that while a special rate for certain customers is no longer considered discriminatory as a matter of statute, it remains unreasonable to make captive customers fund a customer assistance program through higher rates. Mr. Bell asserted that charging higher rates to regular residential customers to fund the proposed low-income rates is not in the public interest. He also concluded that the proposed low-income rate is more appropriately funded by other sources that would not increase rates by creating a revenue requirement. Mr. Bell stated that CUII is a for-profit company that is a wholly owned subsidiary of Utilities, Inc., which is backed by a private equity owner with extensive capital. Mr. Bell explained that Utilities, Inc. is owned by a privately held corporation named Corix through the Corix Group of Companies (US). Mr. Bell explained that ultimately all these companies are “owned by the British Columbia Investment Management Corporation (BCI)…” Mr. Bell also included a quote from BCI’s website that read “[w]ith $199.6 Billion of managed assets, British Columbia Investment Management Corporation (BCI) is the provider of investment management services for British Columbia’s public sector and one of the largest asset managers in Canada.” Mr. Bell concluded that CUII has significant resources that it can draw from to fund the proposed low-income rate. Mr. Bell recommended the Commission deny CUII’s request to increase the rates of regular residential customers to fund its proposed low-income rate.

### LOFS’ Evidence. LOFS witness Rick Cleveland testified that the community objects to CUII’s proposed low-income rate because it further increases the rates for other customers. LOFS Exh No. 1, p. 16. LOFS witness Gary Ver Douw testified that with the low-income rate, the residential customers not eligible for the rate will experience an overall increase of 94.63% for water and 56.23% for wastewater. LOFS Exh. No. 2, p. 36.

### Petitioner’s Rebuttal. Mr. Dickson testified that CUII has developed its proposed low-income rate to help its customers who fall at or below the federal poverty level, rather than to impose any sort of penalty on regular income customers. Pet. Exh. No. 4-R, p. 46. He testified that the impact on regular rate customers will be minimal—for a regular-income CUII customer using 5,000 gallons a month, their water bill increases less than $3.00 ($2.80) per month as a result of the low-income rate (Phase II rates); and a low-income customer using the same 5,000 gallons experiences a $33.07 discount to their water bill because of the rate design that CUII has proposed. *Id.* He testified that the low-income rate design proposed by CUII shifts only $135,412 dollars of CUII’s overall Phase II revenue requirement to regular income residential customers. Mr. Dickson testified that the impact of the sewer low-income rate design is similar—regular residential customers using 5,000 per month will pay less than $3.00 ($2.90) per month to offer their low-income peers the opportunity to save $34.28 per month, a shifting only of $89,084 of CUII’s its revenue requirement, with the result being significant savings for low-income customers. *Id.* at 47.

### Commission’s Discussion and Findings. Ind. Code § 8-1-2-46(c) authorizes the Commission to allow a water or wastewater utility to establish a customer assistance program that uses state or federal infrastructure funds; or provides financial relief to residential customers who qualify for income related assistance. Nothing in section 46 authorizes or contemplates what Petitioner has proposed in this case – a mandatory and material increase to residential customers’ rates to accomplish its program. Petitioner’s low-income rate shifts $135,412 dollars to those customers who have not applied for and qualified for the low-income rate. And yet as Mr. Bell noted, CUII's corporate participation is absent, and according to Petitioner limited to the relatively small potential cost of engaging a firm to verify qualification. The revenue requirement assumes participation that if not met will result in a windfall to CUII at the expense of its customers. Section 46(c) provides that “a customer assistance program established under section 46 that affects rates and charges is not discriminatory[.]” This establishes that a utility may charge low-income customers a different rate, that such a practice is not discriminatory. But nothing in section 46 authorizes a utility to fund a customer assistance by imposing a charge on other customers to pay for the program.

The OUCC’s Mr. Bell discussed the relationship between low-income programs under section 46 and I.C. § 8-1-2-0.5, which declares that planning for and investing in infrastructure necessary for operation and maintenance of utilities should d be done with an eye toward “protecting the affordability of utility services for present and future generations of Indiana citizens.” We question whether a program that simply shifts costs from one residential customer to another residential customer can be considered to accomplish anything like that. Petitioner’s proposal to fund its proposed low-income rate exclusively on the backs of its residential customers by establishing a rate solely funded by those customers is not in the public interest. The cost of this program for water and wastewater service in combination would increase the rates of a customer using 5,000 gallons of water per month by $5.70 per month or $68.40 per year, which is in addition to the other increases embedded in Petitioner’s requested rate increase. This is one more straw on the camel’s back. Approval of the funding source for the low-income program does not protect the affordability of utility services for present and future generations of Indiana citizens

In response to Mr. Bell’s suggestion that the low-income program should be funded by shareholder contributions, Mr. Dickon suggested that “Any imposition of a requirement for CUII or its 20 shareholders to subsidize the rates of its customers would be confiscatory; CUII is entitled to its authorized return.” Dickson Rebuttal, p. 53. We must counter that CUII’s residential customers are entitled to pay rates based only on the cost of providing service them. Any imposition of a requirement for those customers to subsidize the rates of other customers is also confiscatory. Of course, Mr. Dickson may agree that it would not be confiscatory for CUII or its shareholders to voluntarily fund Petitioner’s low-income program. Nor would it be for CUII’s customers to voluntarily subsidize other customers through a round up or opt in program.

For the foregoing reasons, we deny CUII’s request to establish a low-income rate that is funded entirely by increases in rates to residential customers. While we deny the revenue requirement Petitioner has proposed be included in its rates, we do not find that the low-income program and the rate structure Petitioner has proposed should be rejected if it has a different funding source. We encourage Petitioner to pursue a program that depends on other sources of money that does not require residential ratepayers to fund the program through mandatory higher rates than they would otherwise pay.

# **Tariffs.**

## **Reconnection Charge.**

### Petitioner’s Evidence. Petitioner witness Andrew Dickson testified that CUII updated its water reconnection charge to reflect updated costs that Community incurs to perform those reconnections. *Id.* at 54. Attachment AD-3 set forth the calculation of its update to its reconnection charge, which uses Community’s updated capitalized time rate and the most recent IRS standard mileage reimbursements. *Id.*

Attachment AD-2 provided the following language regarding the Reconnection Charge:

Customers who solely receive wastewater service will be billed the actual cost of disconnection and reconnection, the estimated cost of which will be furnished to the customer with the cut-off notice. Customers who receive water and wastewater service will be assessed a charge of $62.62.

Attachment AD-2. This is an update from what was previously a reconnection charge of $37.50. *Id.*

### OUCC’s Evidence. OUCC witness Margaret Stull recommended a reconnection charge of $55.00. Pub. Exh. No. 1, p. 79. Ms. Stull testified that she accepted the hours and mileage proposed by Community and the methodology of the calculation but used a capitalized overtime rate of $40.11 (OUCC Attachment MAS-7), which resulted in a calculation of $56.91. Therefore, she recommended $55.00 as a reasonable charge. *Id.*

### LOFS’ Evidence. LOFS witness Gary VerDouw testified that he recommended a reconnection charge of $63.37, an increase that reflects the 2022 updated IRS standard mileage rate (updated to $0.585 in 2022). LOFS Exh. No. 2, p. 26.

### Petitioner’s Rebuttal. Mr. Dickson maintained that Community’s capitalized overtime rate was appropriate and reiterated his proposed $62.62 reconnection charge.

### Commission Discussion and Findings. Based on the evidence of record and our salary and wage findings discussed above, we find the OUCC’s calculation of the reconnection charge reasonable and its calculation methodology appropriate. Updating the OUCC’s calculation for the 2022 updated IRS mileage rate of $0.585, we approve a reconnection charge of $58.00

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## **Other Tariff Changes.**

### Petitioner’s Evidence. Petitioner witness Andrew Dickson testified that Community proposes several changes to its tariff. To simplify its meter testing fees, Mr. Dickson explained that Community has made it such that there is only one schedule for all of Community, rather than separate schedules of meter testing fees for the various former areas within Community or for “Outside Readers.” Mr. Dickson also stated that this update is intended to comply with 170 IAC 6-1-11. Pet. Exh. 4 at 54. Mr. Dickson also explained that Community eliminated the complexity of the connection charge schedules. Instead of a separate schedule for Twin Lakes customers, all Community customers will now be able to hire a contractor to make their connection, subject to a $50 inspection fee. *Id.* Finally, Mr. Dickson explained that Community has updated its billing and payment option information to reflect the appropriate address for checks and money orders to be mailed and has updated the online payment address. *Id*.; see Attachment AD-2.

### OUCC’s Evidence. OUCC witness Margaret Stull testified that the OUCC accepts Community’s proposed tariff language changes. However, Ms. Stull recommended Community include language with its meter testing fees informing the customer that a report should be received within 10 days of the test and that the customer will have five days to file an appeal. Ms. Stull cited 170 IAC 6-1-11(d), which states “[a] written report giving the results of the test shall be made to the customers within ten (10) days after the test is complete.” 170 IAC 6-1-11(c ) states “[a]n appeal, in regard to the results of the customer’s meter test shall be filed with the commission under section 12 of this rule within five (5) days of the date of the report.”

### Petitioner’s Rebuttal. Mr. Dickson agreed with the OUCC’s proposed tariff language and will add the requested language to its tariff after receiving a final order in this case.

### Commission Discussion and Findings. As the parties are in agreement on this tariff issue, the Commission finds this additional language to be reasonable and hereby authorizes Petitioner to so amend its tariff.

# **Phase-In of Rates.**

Both CUII and the OUCC proposed two phases of rate increases, the first of which would begin upon the issuance of an order but no sooner than the beginning of the test year. The second of which would occur at the end of the forward-looking test period. Thereafter, the parties generally were of one mind as to how the rate increase authorized by this Order should be implemented and that rates are ultimately implemented in a full and timely manner while also ensuring that the base rates only reflect plant and property that is actually in-service and used and useful at the end of Phase 1 and at the end of Phase 2. Phase I rates should be implemented upon the issuance of this Order. Phase I and Phase II rate implementations should be subject to refund based upon the following true-up process. Each component of rate base and capital structure should be updated to actual as of September 30, 2022 (for Phase I) and as of September 30, 2023 (for Phase II). These updates should compare the actual amounts approved by the Commission in this Order and should explain any variances of 5% or greater. For both Phase I and Phase II, rate base reflected in Phase I and Phase II rates shall be capped at the amounts of Phase I and Phase II rate base approved by the Commission in this Order (with the understanding that CUII is not precluded by the foregoing provision from seek recovery of any amounts over such caps in future cases).

The following procedural schedule shall be used for the Phase I and Phase II rate implementations and true-up processes:

* As of the later of October 1, 2022 or the date of this Order, CUII may implement its Phase I rates, subject to refund based upon the final outcome of the Company’s Phase I rate base and capital structure compliance filings and any objections thereto.
* No later than November 1, 2022, CUII shall submit its Phase I rate compliance filing, including the following information: actuals as of September 30, 2022 for: (1) updated utility plant in service listing by asset account, clearly identifying any disallowed plant or other adjustments; (2) updated utility plant in service listing by project number; (3) detailed general ledger transaction listing supporting utility plant additions; (4) updated accumulated depreciation by asset account, clearly identifying any disallowed plant or other adjustments. All of the these supporting schedules should be provided in Excel format with formulas intact.
* Within 60 days of this Order or by November 30, 2022, whichever is later, CUII shall submit the following additional Phase I information: (1) comparisons between actual and approved rate base and capital structure components, (2) updated revenue requirement, and (3) updated tariff. CUII should also provide a certification that the Phase I plant is in service and verification that the construction costs have been incurred and paid*.*
* Within 30 days of the filing of the additional Phase I information, OUCC and LOFS shall file any objections to CUII’s Phase I rates.
* As of October 1, 2023, CUII may implement its Phase II rates, subject to refund based upon the final outcome of the Company’s Phase II rate base and capital structure compliance filings and any objections thereto.
* No later than November 30, 2023, CUII shall submit its Phase II rate compliance filing, including the following information: (1) comparisons between actual and approved rate base and capital structure components, (2) updated revenue requirement, and (3) updated tariff. CUII should also provide a certification that the Phase II plant is in service and verification that the construction costs have been incurred and paid. With this compliance filing, CUII should also provide the following supporting documentation for actual asset additions from October 1, 2022 through September 30, 2023: (1) utility plant in service listing by asset account, clearly identifying any disallowed plant or other adjustments; (2) utility plant in service listing by project number; (3) detailed general ledger transaction listings supporting utility plant additions; and (4) accumulated depreciation by asset account, clearly identifying any disallowed plant or other adjustments. All of the supporting schedules should be provided in Excel format with formulas intact.
* Within 30 days of the Phase II compliance filing, OUCC and LOFS shall file any objections to CUII’s Phase II rates.

The Commission may schedule a hearing if necessary to resolve disputed issues concerning CUII’s Phase I and/or Phase II rate base and capital structure. The parties shall work together to satisfy any additional information requirements the OUCC and LOFS may have, provided they are relevant not unduly burdensome. Any customer credits due to resolution of disputed issues shall be made via bill credits, within 60 days of such resolution or within such other time as the Commission may establish.

# **Confidentiality.**

Petitioner filed Motions for Protection and Nondisclosure of Confidential and Proprietary Information on December 7, 2021, December 8, 2021, January 14, 2022, and May 27, 2022, which were supported by affidavits showing documents to be submitted to the Commission were trade secret information within the scope of Ind. Code §§ 5-14-3-4(a)(4), (9), and 24-2-3-2. The Presiding Officers issued docket entries on January 21, 2022, and June 8, 2022, finding such information to be preliminarily confidential, after which such information was submitted under seal. No party objected to the confidential and proprietary nature of the information submitted under seal in this proceeding. We find the information is confidential pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 24-2-3-2, is exempt from public access and disclosure by Indiana law, and shall continue to be held confidential and protected from public access and disclosure by the Commission.

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

1. Petitioner shall be, and hereby is, authorized to place into effect Phase I rates and charges for water utility service rendered by it in the territories served by it in the State of Indiana in accordance with this Order, including an annual increase to its rates and charges of $1,114,800 which represents an increase in operating revenues of 43.39%. Said rates will produce total annual operating revenues of $3,744,367 and, on the basis of annual operating expenses of $2,650,394, will result in annual utility operating income $1,093,973. Petitioner is hereby authorized to file with the Commission a new schedule of rates and charges which will properly reflect, establish and provide the operating revenues herein authorized. Said schedule of rates and charges should be in accordance with this Order, including implementation of this rate increase in two steps.
2. Petitioner shall be, and hereby is, authorized to place into effect rates and charges for wastewater utility service rendered by it in the territories served by it in the State of Indiana in accordance with this Order, including an annual increase to its rates and charges of $198,238 which represents an increase in operating revenues of 7.37%. Said rates will produce total annual operating revenues of $2,765,534 and, on the basis of annual operating expenses of $2,212,907, will result in annual utility operating income $552,627. Petitioner is hereby authorized to file with the Commission a new schedule of rates and charges which will properly reflect, establish and provide the operating revenues herein authorized. Said schedule of rates and charges should be in accordance with this Order, including implementation of this rate increase in two steps.
3. Petitioner shall be, and hereby is, authorized to recover in its retail rates the following deferred costs as provided in this Order: COVID-19 costs, as described and limited herein. Petitioner’s request to recover engineering and legal costs incurred in connection with Cause No. 45389 and legal costs incurred in connection with Cause No. 45342 is denied.
4. Petitioner’s request to implement a low-income rate through subsidization by residential customers is denied. Petitioner’s rates are approved as established by this Order.
5. Petitioner shall add to its meter testing tariff language informing the customer that the customer should receive the report within ten (10) days of the test and that the customer will have five (5) days to file an appeal.
6. Petitioner shall implement an asset tracking plan to monitor the installation and maintenance of its water meters, providing proof of such program and the tracking of all meters installed one year from the date of this order.
7. Petitioner shall file with the Water and Wastewater Division of this Commission, appropriate tariffs using the rate design criteria specified in this Order, including the rates and charges authorized herein for Phase I and Phase II.
8. The Confidential Information filed under seal in this Cause shall continue to be held by the Commission as confidential and not subject to public disclosure.
9. This Order shall be effective on and after the date of its approval.

**HUSTON, FREEMAN, KREVDA, AND ZIEGNER CONCUR:**

**APPROVED:**

**I hereby certify that the above is a true**

**and correct copy of the Order as approved.**

Dana A. Kosco

Secretary of the Commission

1. The 300-day deadline established by Ind. Code § 8-1-2-42.7 is November 10, 2022. [↑](#footnote-ref-2)
2. Order in Cause No. 45342, p. 10. [↑](#footnote-ref-3)
3. *Id.* at 13. [↑](#footnote-ref-4)
4. SCIP is referred to as Comprehensive I/I Program in rate base summary tables below. [↑](#footnote-ref-5)
5. Mr. Dickson’s rebuttal testimony includes the figure inclusive of captime and AFUDC as $2,619,271. Pet. Exh. No. 4-R at 4. [↑](#footnote-ref-6)
6. Testimony of Loren Grosvenor, Attachment LG-6 - Lift Station L Force Main Cleaning and Replacement Design Memo, Baxter & Woodman. [↑](#footnote-ref-7)
7. Testimony of Rick Cleveland, p. 11. “CUII asks this Commission to include $2.3 million in rates for a headworks project whose size, configuration and cost is unknown and not available for examination by LOFS and the OUCC. Without more certainty and detail, the Commission should deny CUII's request to recover the $2.3 million headworks project in rates.” [↑](#footnote-ref-8)
8. Attachment AS-R1 *Headworks/Chemical Building Draft Design-Build Proposal Scope*, dated May 25, 2022, signed by Amanda Streicher of Baxter & Woodman, Rebuttal Testimony of Amanda R. Streicher, May 27, 2022. [↑](#footnote-ref-9)
9. Andrew Dickson, Rebuttal Testimony, p. 14. [↑](#footnote-ref-10)
10. Attachment AS-R1 *Headworks/Chemical Building Draft Design-Build Proposal Scope*, May 25, 2022, signed by Amanda Streicher of Baxter & Woodman, Rebuttal Testimony of Amanda R. Streicher, May 27, 2022. [↑](#footnote-ref-11)
11. Mr. Guttormsen’s testimony was adopted by Petitioner’s witness Andrew Dickson on January 28, 2022. [↑](#footnote-ref-12)
12. While Mr. Guttormsen states only field technicians will be receiving these 50% raises, it is clear form a review of Mr. Guttormsen’s workpapers that other maintenance employees are also receiving these large pay increases. [↑](#footnote-ref-13)
13. “The Commission finds no evidence that the Business Development activities provide a benefit to ratepayers – in fact, the Commission is concerned that ratepayers may be subsidizing business development with limited offsetting benefits.” (Final order dated June 6, 2012, in Cause No. 44022, page 70.) [↑](#footnote-ref-14)
14. “The Commission finds no evidence that the Business Development activities provide a benefit to ratepayers – in fact, the Commission is concerned that ratepayers may be subsidizing business development with limited offsetting benefits.” (Final order dated June 6, 2012, in Cause No. 44022, page 70.) [↑](#footnote-ref-15)
15. $670.84 (current 6” meter charge) + $158.67 (current DSIC charge). [↑](#footnote-ref-16)
16. Plus one water goal, to decrease discolored drinking water complaints. See Order in Cause No. 44724, at 76. [↑](#footnote-ref-17)
17. $649,308 ($108,218 recovered over six years) less authorized rate case expense of $432,873 results in a $216,436 over-recovery of rate case costs. [↑](#footnote-ref-18)
18. Mr. Kilbane’s rebuttal testimony (p. 6, line 5) reflected total rate case costs of $400,280 but Attachment JK-R1 reflected $401,513. A Notice of Corrections was filed by Petitioner on June 24, 2022 correcting the amount reflected in testimony to be consistent with Attachment JK-R1. During the evidentiary hearing, Mr. Dickson clarified that Petitioner is only requesting recovery of $400,280 of rate case costs. *See* Hr. Tr. at D-17. Lines 2 – 12. [↑](#footnote-ref-19)
19. Mr. Guttormsen’s testimony was adopted by Petitioner witness Andrew Dickson on January 28, 2022. [↑](#footnote-ref-20)
20. In its proposed order, Petitioner asserted that orders in other future test period cases “confirm[] that one Test Period level of operating expense should be included in both Phase I and Phase II, while rate base itself, along with accumulated depreciation and capital structure, should be updated between Phases I and II.”   Petitioner then referred us to *In re Duke Energy Ind., LLC*, Cause No. 45253 (IURC June 29, 2020); *Verified Petition of Southern Indiana Gas & Elec. Co.*, Cause No. 45447 (IURC; Oct. 6, 2021); *Petition of Indiana-American Water Co.*, Cause No. 45142 (IURC; June 26, 2019); *In re N Ind. Pub. Serv. Co.*, Cause No. 44988 (IURC; September 18, 2018). Petitioner included no page numbers for the listed orders which are together several hundred pages. Three of these are settled cases.  None of these cases dealt squarely with the contested issue of whether a utility must be or should be permitted to collect in its Phase I rates property taxes on plant that will not be completed and in service until Phase II (i.e., the end of the test year.  We see no reason to be bound by this vague assertion of precedent, and we find that property tax expense can and should be updated in synchronicity with rate base. [↑](#footnote-ref-21)