

**ORIGINAL**

Commissioner	Yes	No	Not Participating
Huston	√		
Bennett	√		
Freeman	√		
Veleta	√		
Ziegner	√		

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**VERIFIED PETITION OF THE BOARD OF )  
DIRECTORS FOR UTILITIES OF THE )  
DEPARTMENT OF PUBLIC UTILITIES OF THE )  
CITY OF INDIANAPOLIS, AS TRUSTEE OF A )  
PUBLIC CHARITABLE TRUST FOR THE )  
WATER SYSTEM, D/B/A CITIZENS WATER, )  
FOR APPROVAL OF (A) A NEW DISTRIBUTION )  
SYSTEM IMPROVEMENT CHARGE (“DSIC”) )  
PURSUANT TO IND. CODE CH. 8-1-31; (B) A )  
NEW RATE SCHEDULE REFLECTING THE )  
DSIC; AND (C) INCLUSION OF THE COST OF )  
ELIGIBLE DISTRIBUTION SYSTEM )  
IMPROVEMENTS IN ITS DSIC )**

**CAUSE NO. 45767 DSIC 2**

**APPROVED: NOV 22 2023**

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**David E. Ziegner, Commissioner**

**Loraine L. Seyfried, Chief Administrative Law Judge**

On September 19, 2023, the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis, as Trustee of a Public Charitable Trust for the Water System d/b/a Citizens Water (“Citizens Water” or “Petitioner”) filed with the Indiana Utility Regulatory Commission (“Commission”) its Verified Petition for approval of a distribution system improvement charge (“DSIC”) pursuant to Ind. Code ch. 8-1-31 and 170 IAC 6-1.1. In support of its Verified Petition, Citizens Water filed the direct testimony of Jeffrey A. Willman, Vice President of Water Operations for Citizens Energy Group, Mark C. Jacob, Vice President of Capital Programs & Engineering and Quality Systems for Citizens Energy Group, and Korlon L. Kilpatrick II, Director, Regulatory Affairs for Citizens Energy Group.

On October 19, 2023, the Indiana Office of the Utility Consumer Counselor (“OUCC”) filed its Report in response to Citizens Water’s DSIC application, consisting of the redacted testimony of Jason T. Compton. On October 25, 2023, the OUCC filed its Notice of Revised Testimony of Jason T. Compton removing redactions based on the consent of Petitioner’s counsel.

On October 25, 2023, Petitioner filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information to protect information contained in OUCC Attachments JTC 3, 4, 5, and 6. On October 26, 2023, the Commission issued a Docket Entry approving Petitioner’s Motion on a preliminary basis. On November 3, 2023, the OUCC filed its Notice of Confidential Filing.

On October 26, 2023, Citizens Water filed the rebuttal testimony of Mark C. Jacob.

The Commission held an Evidentiary Hearing in this Cause on November 6, 2023, at 9:30 a.m. in Room 222 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana. Petitioner and the OUCC appeared and participated at the hearing at which the testimony and exhibits of Petitioner and the OUCC were admitted into evidence without objection. At the request of the OUCC, Petitioner also agreed to a one-week extension of the 60-day deadline under Ind. Code § 8-1-31-9(c) for issuance of an order.

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

**1. Notice and Jurisdiction.** Due, legal, and timely notice of the public hearing in this Cause was given and published as required by law. Petitioner also provided notice of its filing in this Cause to its wholesale customers pursuant to 170 IAC 6-1.1-4. Pet. Ex. 3, Attach. KKK-4. Pursuant to Ind. Code § 8-1-11.1-3(c)(9), Citizens Water is subject to the Commission’s jurisdiction with respect to its rates and charges as a municipally owned utility in accordance with Ind. Code § 8-1.5-3-8.

Petitioner is also an “eligible utility” as defined by Ind. Code § 8-1-31-5.2. By way of its Verified Petition, Citizens Water asserts it is a municipally owned utility, as defined in Ind. Code § 8-1-2-1(h). Pet. Ex. 5, ¶ 3. Although Petitioner is not owned or operated by a municipality and qualifies as a “not-for-profit utility” under Ind. Code § 8-1-31-5.9 as a “utility company owned, operated, or held in trust by a consolidated city,” Petitioner has been regulated consistently by the Commission as a municipally owned utility.<sup>1</sup> Therefore, for purposes of Ind. Code ch. 8-1-31 (the “DSIC Statute”), we consider Petitioner to be a municipally owned utility and, as such, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

**2. Petitioner’s Characteristics.** Citizens Water owns and operates certain water utility assets acquired from the city of Indianapolis, Indiana and its Department of Waterworks pursuant to an Asset Purchase Agreement approved by the Commission’s July 13, 2011 Order in Cause No. 43936. By means of the foregoing water utility plant, properties, equipment, and facilities, Citizens Water provides water utility service to the public in Indianapolis and surrounding communities in Central Indiana. Its principal office is located at 2020 North Meridian Street, Indianapolis, Indiana 46202.

**3. Background and Relief Requested.** On November 23, 2022, the Commission issued an Order in Cause No. 45767 DSIC 1 (“DSIC 1 Order”), approving cost recovery totaling \$15,049,155 over a four-year period, which resulted in a monthly DSIC 1 surcharge for a typical residential customer of \$0.72 that is still in effect.

In this proceeding, Petitioner seeks approval of a DSIC surcharge to recover the cost of eligible infrastructure improvements, which are extensions and replacements (“E&R”) that were not included on Citizens Water’s balance sheet as plant in service in its most recent general rate case and are not infrastructure improvements that are being recovered or have been recovered through rates or another rate adjustment mechanism. Citizens Water requests approval of a DSIC 2 surcharge to generate total revenues in the amount of approximately \$31.3 million over a 12-

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<sup>1</sup> Regardless of whether Petitioner is a municipally owned utility or a not-for-profit utility, Ind. Code ch. 8-1-31 authorizes both types of utilities to seek recovery of infrastructure improvement costs that include adequate money for making extensions and replacements, which are the costs at issue in this proceeding.

month period. The monthly rate adjustment for a customer with a 5/8-inch meter (the typical size for residential customers) is expected to be \$5.91. Combining the DSIC 1 surcharge and the DSIC 2 surcharge for the 12-month period that the DSIC 2 surcharge will be in effect is expected to result in a collective monthly DSIC surcharge of \$6.63 for the typical residential customer.

#### **4. Petitioner's Direct Evidence.**

**A. Description of DSIC Improvements.** Mr. Willman testified that a DSIC enables the utility to invest in eligible distribution infrastructure replacements and relocations between rate cases when capital investments exceed the investment levels that were approved in a prior rate case. Mr. Willman explained the basis for Petitioner's request was that it had completed E&R that satisfy the criteria set forth in the DSIC Statute. He stated the majority of projects are utility relocations that were required due to highway, street, and road related improvements impacting Citizens Water's infrastructure in the rights-of-way ("Public Improvement Projects") and that such Public Improvement Projects comprise approximately \$23 million of the approximately \$31 million of DSIC eligible projects. Mr. Willman stated that Citizens Water's capital costs have increased since the last rate case due primarily to a significant increase in Public Improvement Projects. He discussed the significant influx of federal funds to Indianapolis and other Central Indiana communities in recent years that require significant utility relocations but do not cover the cost of such relocations and include road improvements and the Indy Go Bus Rapid Transit system. Mr. Willman noted that Citizens Water is obligated to perform utility relocations for Public Improvement Projects and does not have the option to defer such work.

Mr. Willman testified that Citizens Water believes the DSIC is a tool that best addresses the unique circumstances it is facing with Public Improvement Projects that are driven by a large influx of federal funds. He stated the increase from a DSIC is temporary, as it is recovered over 12 months and then drops to zero, as compared to the increase from a general rate case, which is structural and permanent until the next case. Mr. Willman stated it is uncertain how long the increased funding will be available to local communities and when the influx starts to decline the increase in utility relocation projects may also decline.

Mr. Willman explained that the DSIC Statute contains restrictions on when a DSIC may be filed but none are an issue in this case. He also discussed the 10% cap contained in the DSIC Statute but explained that the cap does not apply to infrastructure improvement costs due to the construction, reconstruction, or improvement of a highway, street, or road (as defined in Ind. Code § 8-23-1-23), including projects under Ind. Code art. 8-25. Mr. Willman further noted that although the Commission's regulations regarding DSIC filing requirements have not changed to reflect the changes to the DSIC Statute regarding municipally owned utilities, Citizens Water has complied with those requirements to the extent possible. As an officer of the utility, he also provided an affidavit attesting to the veracity of the statements and information in this DSIC filing.

Mr. Jacob stated that since its last rate case, Citizens Water consistently has incurred more costs associated with the utility's capital improvement needs than the amount authorized for inclusion in Citizens Water's E&R revenue requirement. He said Citizens Water's capital investment spend during each year following the last rate case has exceeded the revenue requirement approved in its last rate case. He stated that per the Commission's Order in Citizens Water's last rate case, Cause No. 44644, only \$42,504,461 of the \$49,504,461 E&R revenue

requirement was to be cash-funded and, in the short term, the remaining approximately \$7 million of the E&R revenue requirement was to be funded through debt. Mr. Jacob stated that the Commission approved an amount of additional debt service expense for inclusion in Petitioner's overall revenue requirement that allowed for issuance of enough debt to fund capital improvements for a two-year period. Accordingly, Mr. Jacob stated, beginning in mid-2018, Citizens Water's rates have been set at a level that provides it with an opportunity to generate \$42,504,461 to fund the capital needs of its system.

Mr. Jacob explained the factors driving the actual and forecasted increase in capital improvement spending, including the higher number of external, road-related improvements impacting Petitioner's infrastructure in the rights-of-way. He testified all the projects that Citizens Water has included as eligible infrastructure improvements have been completed and are in service, were not included on the utility's balance sheet as plant in service in its most recent general rate case and are not being recovered through base rates or another rate adjustment mechanism.

Mr. Jacob stated the total expected cost of the eligible infrastructure improvements that are included in the calculation of the DSIC 2 surcharge is \$31,283,540. Mr. Jacob sponsored Attachment MCJ-1, a summary of the eligible infrastructure improvements. Pet. Ex. 2. It shows approximately \$23 million is comprised of Public Improvement Projects and the remaining approximately \$8 million is comprised of projects that were for the relocation of existing utility plant due to specific trail projects or the replacement of failing meters, valves, hydrants, and service lines, and the retirement of service line taps.

Mr. Jacob then described the process Citizens Water undertook to ensure that the cost of the projects on Attachment MCJ-4 and MCJ-5 of Petitioner's Exhibit 2 was not being recovered or had not already been recovered through rates or some other mechanism. He said Petitioner engaged in a multi-step screening process to ensure the investments exceeded the amount Citizens Water was authorized to recover through its revenue requirement for that fiscal year and none of the projects were identified in the project list included in its last rate case. He stated the screening process was the same process used and approved in the DSIC 1 Order.

Mr. Jacob explained that spending for Public Improvement Projects was included in a single category in Cause No. 44644 and beginning in mid-2018 Citizens Water is authorized to recover \$1,560,000 for Public Improvement Projects through rates. He stated that Citizens Water recovers \$3,674,139 annually for meter, valve, hydrant, and service line replacements through rates but has spent approximately \$9,660,000 annually, which leaves approximately \$6 million eligible for recovery. Petitioner's Exhibit 2, Attachment MCJ-5 includes approximately \$5,500,000 for recovery in this DSIC. In support of the service line tap retirement projects included in this DSIC, Mr. Jacob said that Citizens Water included approximately \$233,550 in rates but has spent more than that in prior years. Citizens Water included \$1,349,517 in this DSIC filing for service line tap retirement projects.

Mr. Jacob testified that none of the projects shown on Attachments MCJ-4 and MCJ-5 of Petitioner's Exhibit 2 resulted in an increase in revenues resulting from the connection of new customers and Citizens Water has cost support that could be provided for all listed E&R projects and none of the projects were completed by an affiliate.

**B. Calculation of DSIC.** Mr. Kilpatrick supported the calculation of the requested DSIC 2 surcharge for the recovery of the cost of the eligible infrastructure improvements described by Mr. Jacob. Mr. Kilpatrick provided the calculation of the fixed surcharges by meter size. He stated that the fixed charges in DSIC proceedings may be based on cost, actual or estimated, of the eligible infrastructure improvements that have been made or will be made during the upcoming 12-month period(s) that are incremental to the amounts included in Petitioner's revenue requirements in Cause No. 44644. He stated that in this case, all costs included in Petitioner's DSIC surcharge are for E&R that have been made.

Mr. Kilpatrick stated that the total expected E&R cost included in the calculation of the DSIC 2 surcharge is \$31,283,540. He testified the monthly fixed customer charges were developed using the Meter Size method as described in American Water Works Association, Principles of Water, Rates, Fees and Charges Manual. Under this approach, he said, fixed customer charges increase as the size (capacity) of the meter increases. To derive the monthly fixed charges, Mr. Kilpatrick stated that a meter equivalent ratio is developed that expresses the capacity of larger meters in relation to the capacity of the utility's "base" meter size (e.g., a 5/8 - inch meter). Mr. Kilpatrick stated that the methodology used in this proceeding is the same as approved in the DSIC 1 Order. Ultimately, Mr. Kilpatrick determined the monthly rate adjustment for a customer with a 5/8-inch meter (the typical size for residential customers) is \$6.63 (DSIC 1 surcharge of \$0.72 + DSIC 2 surcharge of \$5.91). The DSIC 2 surcharge for the other meter sizes was set forth in Petitioner's Exhibit 3, Attachment KLK-2.

Mr. Kilpatrick stated that at the end of a 12-month period following the date on which the Commission initially approves the DSIC surcharge amounts, Citizens Water will reconcile the difference between the adjustment revenues and infrastructure improvement costs during that period and recover or refund the difference, as appropriate, through additional adjustments.

Mr. Kilpatrick testified that the revenue generated by the DSIC surcharge does not exceed 10% of Petitioner's base revenue level. He stated Petitioner's total base revenue requirement as filed in the July 25, 2016 Compliance Filing in Cause No. 44644 is \$200,083,163 and subsequently updated on July 1, 2022 to remove utility receipts tax to the amount of \$197,313,323. Mr. Kilpatrick stated that if total DSIC revenues subject to the cap of \$11,694,460 are divided by the total base water revenue requirement \$197,313,323, the resulting percentage is 5.93%, which is below the 10% cap.

**5. The OUCC's Evidence.** Mr. Compton testified that Petitioner's case-in-chief did not provide all the information the OUCC needed to evaluate the projects under Ind. Code § 8-1-31-5. He noted that in Attachment MCJ-4, Petitioner breaks the costs down by material, labor, and non-construction costs without defining the term "non-construction costs" or indicating what those costs could be. Mr. Compton testified Petitioner should identify broad terms, such as "non-construction costs," or provide more specific information to avoid the necessity of discovery and the delay caused by waiting for that information. As another example, in Schedule 2 of Attachment MCJ-5, he said Petitioner did not break down the costs at all and provided no explanation as to what was included in those costs. He noted Petitioner also used acronyms throughout its attachments and workpapers without indicating the meaning of those acronyms. Mr. Compton said that overall, Petitioner presented its supporting documentation in a way that cannot be understood by other parties without additional inquiry or explanation. Given the highly expedited timeframe

of DSIC cases, Mr. Compton asserted that a utility that chooses to use the DSIC should provide a full break down of costs and a sufficient explanation of what they include.

Noting Mr. Jacob's statement that Petitioner has cost support for all listed E&R projects in Attachments MCJ-4 and MCJ-5 and that it "is prepared to file the information," Mr. Compton said it would have been helpful if Petitioner had simply submitted some of this cost support information in its case-in-chief. Mr. Compton stated that the expedited statutory timeline for DSIC cases makes it important for Petitioner to file supporting information in its case-in-chief. He recommended the Commission encourage Petitioner to be proactively transparent in future filings, which would allow for a more complete and meaningful review by the OUCC.

Mr. Compton noted Petitioner failed to provide attachments as an Excel spreadsheet as required by the Commission's General Administrative Order ("GAO") 2020-05. He explained the GAO requires inputs used to calculate revenues, expenses, and other revenue requirements should be transparent and subject to inquiry and analysis, and any spreadsheet submitted by any party should be provided as an Excel spreadsheet with formulas intact so that inputs may be known and verified. Additionally, spreadsheets should include explicit references to applicable workpapers or linkages to all source or precursor spreadsheets. Mr. Compton said the OUCC was required to obtain the Excel version of the spreadsheets (Attachments MCJ-1 through MCJ-6) through discovery, which further reduced the already short amount of time the OUCC had for review and analysis of relevant information. Mr. Compton testified Petitioner's failure to adhere to GAO 2020-05 impaired the OUCC's ability to verify the inputs used in the calculation the OUCC is authorized to confirm.

Mr. Compton discussed the cost support and invoices related to Petitioner's Exhibit 2, Attachment MCJ-5. He stated that where a data request was necessary, the OUCC did not always receive the information needed. For example, he noted that in his review of Schedule 2 of Attachment MCJ-5, the costs presented are not broken down by labor, materials, or non-construction. While such a breakdown was provided in Petitioner's Exhibit 2, Attachment MCJ-4, when the OUCC requested a breakdown of costs for Attachment MCJ-5, Petitioner indicated through an objection that it had not performed that study or analysis. Mr. Compton said he also asked for cost support and invoices pertaining to identified line items, but Petitioner's cost support did not clear up the issues he had regarding those line items.

Mr. Compton testified Petitioner's case created confusion as to the number of assets being replaced for the stated costs. More specifically, he noted Attachment MCJ-5 of Petitioner's Exhibit 2 included several replacement projects that indicated only one to three asset units with extraordinarily high costs and provided specific examples of projects where Petitioner's cost support and invoices failed to justify the costs. Mr. Compton's review indicated that in such cases there were more asset units added than indicated.

Mr. Compton concluded by recommending the Commission direct Petitioner to follow GAO 2020-05 and encourage Petitioner to be more proactively transparent in the presentation of its cases and responses to discovery.

**6. Petitioner's Rebuttal Evidence.** Mr. Jacob testified that Citizens Water prepared its case-in-chief in compliance with the DSIC Statute and the Commission's rules regarding DSIC

filings. He stated Petitioner included information in the same format in its case-in-chief as it filed in Cause No. 45767 DSIC 1, where neither the Commission nor the OUCC raised concerns regarding the format of the information relative to the cost of eligible infrastructure improvements. He testified Citizens Water attempted to replicate its presentation of evidence from its prior DSIC filing in this case. Mr. Jacob stated that Citizens Water responded to discovery within four business days as prescribed by the Commission's rules and noted the OUCC did not request an expert-to-expert discussion regarding any of the eligible infrastructure improvements discovery responses.

Regarding the term "non-construction costs," Mr. Jacob testified the same information was presented in Cause No. 45767 DSIC 1 and Citizens Water defined the term in response to a data request from the OUCC. He stated Petitioner also filed workpapers containing cost breakdowns. For instance, he noted that Attachment MCJ-5 is a high-level summary of the eligible valve, meter, service, and hydrant improvements and that Workpapers MCJ-4, MCJ-5, MCJ-6, and MCJ-7, which were filed in Excel format, include itemized costs of parts and materials, labor, payroll taxes, and other loadings.

As for Mr. Compton's statements concerning the submission of additional cost support information in Petitioner's case-in-chief, Mr. Jacob stated that submitting all cost support up front is neither required under the Commission's rules nor practical. Citing to 170 IAC 6-1.1-5(8), he noted the Commission's rules provide that the utility must provide a statement that the utility has invoices and other cost support for every item included in the project cost form and that the utility is prepared to file such invoices if required by the Commission or requested by the OUCC. He stated it would be unduly burdensome and inefficient to submit cost support for every project included in a DSIC and noted that the OUCC routinely recognizes the impracticality of reviewing all projects in a DSIC.

Mr. Jacob indicated Citizens Water tried to use acronyms consistently in its DSIC filings and will endeavor to use the same acronyms in the future along with defining them more notably in the case-in-chief. He stated that in future cases, if the OUCC has questions about the meaning of an acronym, Citizens Water would be willing to define an acronym informally outside of the discovery process. Mr. Jacob testified Citizens Water will continue to engage with the OUCC to help facilitate its understanding of the eligible infrastructure improvements presented in future DSIC proceedings and will timely respond to discovery requests. He also noted Citizens Water did file its more complex spreadsheet workpapers in Excel format and, in future DSIC cases, Citizens Water will file all spreadsheet attachments in Excel format as it did with its workpapers.

Mr. Jacob explained that the line-item entries referenced by Mr. Compton reflect standard accounting principles for these types of projects and do not necessarily reflect the cost of completing a specific replacement. Responding to the examples provided by Mr. Compton, Mr. Jacob noted that meter, valve, and hydrant replacements are part of "bucket" project categories. He stated that, while all costs are tracked, these costs are not necessarily recorded to specific projects for accounting purposes. Rather, costs for items such as restoration and labor incurred after "bucket" projects have been placed in service are accumulated and incorporated for accounting purposes into the next project of the same type that is placed in service.

Mr. Jacob testified this accounting treatment does not impair Citizens Water's ability to compare the cost of like replacement projects. He stated from an operational standpoint,

information regarding the total cost of an individual meter, valve, and hydrant replacement has less value than the average cost of multiple replacements. He testified that one meter, valve, or hydrant might cost more or less than another replacement of a meter, valve, or hydrant based on the site conditions and restoration work that must be completed. Accordingly, he stated, it is possible that the cost of one single hydrant replacement could be significantly higher or lower than another. He said it is far more telling to look at material costs or the average cost of replacements over a longer timeframe. Mr. Jacob also noted that the manner in which these costs are recorded is consistent with National Association of Regulatory Utility Commissioners (“NARUC”) Uniform System of Accounts (“USOA”), which Citizens Water is bound to follow.

Mr. Jacob stated that neither Mr. Compton’s concerns relating to the accuracy of the cost of the projects nor the concern that there is potentially non-eligible DSIC work being done are valid concerns. He testified Citizens Water followed the same methodology for including meter, valve, and hydrant replacement costs in this DSIC as it used in its prior DSIC, which is consistent with NARUC accounting standards. Additionally, he stated, for each of the years that the “bucket” project categories with assignable balances included in Attachments MCJ-4 and MCJ-5 contained projects that were placed in service, Citizens Water invested more in those capital budget authorizations than it was authorized to recover through its revenue requirement for the fiscal year. Therefore, in the case of the valve replacement example cited by Mr. Compton, Mr. Jacob stated only costs incurred related to like valves would be accounted for under the same line item for the in-service valve. He testified the same is true of the other projects Mr. Compton discusses.

**7. Commission Discussion and Findings.** The DSIC Statute was enacted in 2000 as an exception to the traditional ratemaking paradigm to encourage, through an expedited and automatic rate increase, repair or replacement of a distribution system’s aging and failing infrastructure. *See Indiana-American Water Co., Inc.*, Cause No. 42351 DSIC 1, at 21 (IURC Feb. 27, 2003). Municipally owned utilities have been authorized to file a petition for a DSIC since the DSIC Statute was enacted. However, in 2022, the Indiana General Assembly amended the DSIC Statute through Senate Enrolled Act 273 to include additional provisions specifically applicable to municipally owned and not-for-profit utilities and again in 2023 through Senate Enrolled Act 298 to further clarify those provisions.

The DSIC Statute authorizes the Commission to approve a DSIC for water or wastewater utilities under the Commission’s jurisdiction to adjust basic rates and charges to recover infrastructure improvement costs associated with eligible infrastructure improvements. Eligible infrastructure improvements, as defined by Ind. Code § 8-1-31-5, include projects that: (1) are new water or wastewater utility distribution or collection plant projects or projects to relocate existing utility plant, (2) do not increase revenues by connecting to new customers, even if the projects provide greater available capacity with respect to an eligible utility’s distribution or collection plant, and (3) for a municipally owned or not-for-profit utility, (a) are or will be extensions or replacements of applicable projects, (b) were not included on the utility’s balance sheet as plant in service in the utility’s most recent general rate case, and (c) are not infrastructure improvements that are being recovered or have been recovered through rates or another rate adjustment mechanism.

An eligible utility that makes such improvements may file a petition setting forth rate schedules establishing an amount that will allow the adjustment of the eligible utility’s basic rates



and charges to provide for recovery of the infrastructure improvement costs. Ind. Code § 8-1-31-8(a). With respect to a municipally owned utility, infrastructure improvement costs include:

- (A) Depreciation expenses.
- (B) Adequate money for making extensions and replacements of eligible infrastructure improvements to the extent not provided for through depreciation, as provided in IC 8-1.5-3-8(c).
- (C) Debt service on funds borrowed to pay for eligible infrastructure improvements.
- (D) To the extent applicable, property taxes to be paid by the municipally owned utility based upon the first assessment date following placement in service of eligible infrastructure improvements.

Ind. Code § 8-1-31-5.5(2)(A)-(D).

The eligible utility's proposed DSIC adjustment is to be calculated as a monthly fixed charge based upon a meter equivalency size. Ind. Code § 8-1-31-8(a)(1). In the case of a municipally owned utility or a not-for-profit utility, the DSIC adjustment also shall be recovered over a 12-month period, regardless of the amount of time over which the infrastructure improvement costs were incurred. Ind. Code § 8-1-31-8(a)(3). The revenues that can be recovered through a particular DSIC surcharge by a municipal or not-for-profit utility are limited by Ind. Code § 8-1-31-13(a)(2), which prohibits approval of a petition filed under Ind. Code § 8-1-31-8 or -10 to the extent it would:

produce total adjustment revenues over the course of each twelve (12) month recovery period that exceed ten percent (10%) of the eligible utility's base revenue level approved by the commission in the eligible utility's most recent general rate proceeding.

However, this 10% cap does not apply to: (1) infrastructure improvement costs associated with eligible infrastructure improvements that are placed in service due to the construction, reconstruction, or improvement of a highway, street, or road (as defined in Ind. Code § 8-23-1-23), including projects under Ind. Code art. 8-25; or (2) property taxes associated with eligible infrastructure improvements. Ind. Code § 8-1-31-13(b).

When an eligible utility files a petition seeking authority to implement a DSIC surcharge, the Commission's rules at 170 IAC 6-1.1-5(a) set forth the required information to be provided by the utility. After the utility files its petition, the OUCC may, if it chooses to do so, submit a report to the Commission indicating its opposition to or support of each portion of the petition within 30 days after the petition is filed. The OUCC may examine information of the eligible utility, limited to the confirmation that: (1) the infrastructure improvements are in accordance with Ind. Code § 8-1-31-5; and (2) the utility properly calculated the proposed charges. Ind. Code § 8-1-31-9(b).

A. **Eligible Infrastructure Improvement Costs.** In this case, the OUCC did not contest the amount of Citizens Water's eligible "infrastructure improvement costs" or suggest that any of the costs were not for eligible infrastructure improvements recoverable in accordance with Ind. Code § 8-1-31-5.

The evidence shows that the eligible infrastructure improvements presented by Petitioner fall into the NARUC USOA for Water Utilities Accounts 303, 304, 310, 330, 331, 333, 334, or 335. Specifically, Mr. Jacob testified that approximately \$8 million of the costs included in this proceeding relate to the replacement of service lines, valves, hydrants, and meters and were recorded in USOA Accounts 331, 333, 334, and 335. Additionally, Mr. Jacob testified that approximately \$23 million of the costs included in this proceeding relate to certain Public Improvement Projects, all of which he stated were relocations due to the construction, reconstruction, or improvement of a highway, street, or road, and therefore eligible for DSIC recovery. Such costs are also exempt from the 10% cap described above.

Petitioner's evidence demonstrates the eligible infrastructure improvements included in this DSIC proceeding represent projects that have been completed and are now in service; were not included on the utility's balance sheet as plant in service in Citizens Water's most recent general rate case; and are not being recovered through rates or another rate adjustment mechanism. Mr. Jacob further testified that the eligible infrastructure improvements do not result in an increase in revenue from the connection of new customers to Petitioner's system. The eligible infrastructure improvements were specifically listed on Petitioner's Exhibit 2, Attachments MCJ-4 (a list of water utility relocation projects) and MCJ-5 (a list of eligible infrastructure improvement projects subject to the cap included in this DSIC) and Petitioner provided the information required under 170 IAC 6-1.1-5 in the attachments or in the discussion of the projects in Mr. Jacob's testimony.

Accordingly, based on the evidence of record we find that the projects are eligible infrastructure improvements, the costs of which are eligible for inclusion in a DSIC.

**B. Calculation of the DSIC Surcharge.** In accordance with Ind. Code § 8-1-31-8, Citizens Water calculated the DSIC surcharge in this proceeding as a monthly fixed charge based upon meter size, which is to be recovered over a 12-month period. *See* Pet. Ex. 3, Attach. KLK-2. Petitioner used the same methodology to calculate that DSIC surcharge as was approved by the Commission in the DSIC 1 Order. Based on the evidence of record, the Commission finds Petitioner has correctly calculated the DSIC surcharges.

**C. Revenues from the DSIC Surcharge.** As discussed by Mr. Jacob, improvements relating to the construction, reconstruction, or improvement of a highway, street, or road have been a significant driver of Citizens Water's E&R costs since the Commission's Order in Cause No. 44644. As a result, of the total \$31,283,540 in the DSIC 2 adjustment amount, Citizens Water included \$23,351,368.66 for infrastructure improvements that were placed in service due to the construction, reconstruction, or improvement of a highway, street, or road. This amount is not included in the calculation of the adjustment revenues for purposes of assessing whether they exceed 10% of the base revenue level approved in the water utility's most recent general rate case.

The total adjustment revenues that are subject to the 10% cap as a result of this DSIC filing is \$11,694,460, as shown on Line 4 of Petitioner's Exhibit 3, Attachment KLK-3. This includes \$3,762,289 that was approved for recovery in DSIC 1 and \$7,932,171 relating to meter, valve, hydrant, and service replacement projects in this DSIC 2. Citizens Water's adjusted operating revenues are \$197,313,323. Therefore, when the total DSIC revenues eligible for the percent cap

calculation, or \$11,694,460, are divided by the total base water revenue requirement of \$197,313,323, the resulting percentage is 5.93%, which is below the 10% cap.

Accordingly, the evidence reflects that the total adjustment revenues that will be provided by Citizens Water's DSIC surcharge do not exceed the 10% cap imposed by the DSIC Statute.

**D. Reconciliation of the DSIC Surcharge.** Petitioner shall reconcile the DSIC approved by this Order in the manner prescribed by Ind. Code § 8-1-31-14 and 170 IAC 6-1.1-8. Under Ind. Code § 8-1-31-14, at the end of each 12-month period following the date on which the Commission initially approves the DSIC surcharge amounts, Citizens Water shall reconcile the difference between the adjustment revenues and infrastructure improvement costs during that period and recover or refund the difference, as appropriate, through additional adjustments.

**E. Meter, Valve, and Hydrant Replacement Costs and Transparency Issues.** Mr. Compton expressed the OUCC's concern with Petitioner's presentation and adequacy of support for some meter, valve, and hydrant replacement costs included in Citizens Water's proposed DSIC adjustment and in particular those assets identified in Petitioner's Exhibit 2, Attachment MCJ-5. Mr. Compton recommended the Commission direct Petitioner to follow GAO 2020-05 in future DSIC cases and encourage Petitioner to be more proactively transparent in the presentation of its DSIC cases and responses to discovery.

In response to the OUCC's testimony, Citizens Water indicated it would continue to engage with the OUCC to help facilitate its understanding of the eligible infrastructure improvements presented in future DSIC proceedings, timely respond to discovery requests, and file all spreadsheet attachments in Excel format as required by GAO 2020-05.

The evidence shows Citizens Water's accounting treatment does not impair its own ability to compare the cost of like replacement projects. We also encourage accounting practices and recording of asset costs to be consistent with NARUC USOA. But we also agree that case-in-chief testimony should be robust, and information provided in attachments should be clear and easily understood. This is particularly so in expedited cases where there is little time to review information through discovery.

Petitioner's witness Jacob agreed during cross examination to include in future DSIC cases-in-chief a breakdown between construction costs and non-construction costs to the extent the attachment demonstrates project costs, as Petitioner included in its attachment listing Public Improvement Projects in this proceeding. Mr. Jacob also agreed to provide a more robust explanation of the processes Petitioner uses to ensure its improvements do not increase revenues by connecting to new customers.

Accordingly, before filing its next DSIC, Petitioner shall meet with the OUCC to discuss the proposed content and information to be provided in its case-in-chief. We further find that Petitioner should provide the information identified by Mr. Jacob in his prefiled testimony and at the hearing. Additionally, Petitioner should include a presentation of project costs that show the number of units replaced and installed over a 12-month fiscal period for each category of "bucket" projects. This should allow the OUCC to calculate average meter, valve, and hydrant replacement

costs, which we note was similarly addressed in *Indiana-American Water Company, Inc.*, Cause No. 42351 DSIC 13 (IURC March 21, 2022).

**8. Confidential Information.** On October 25, 2023, Petitioner filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information, which was supported by the Affidavit of Mark C. Jacob and showed that certain information to be submitted to the Commission by the OUCC contained trade secret information as defined in Ind. Code § 24-2-3-2 and should be treated as confidential in accordance with Ind. Code §§ 5-14-3-4 and 8-1-2-29. The Presiding Officers, in a Docket Entry on October 26, 2023, determined this information should be held confidential on a preliminary basis, after which the information was submitted under seal. After reviewing the information, we find this information qualifies as confidential trade secret information pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29. This information shall be held as confidential and protected from public access and disclosure by the Commission and is exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29.

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

1. A Distribution System Improvement Charge calculated as a fixed charge by meter size and designed to generate total additional annual DSIC revenues of \$31,283,540 set forth in Rider B attached to Petitioner’s Exhibit 3, Attachment KLK-1 is approved.

2. Prior to implementing the above-authorized DSIC, Citizens Water shall file the Rider B tariff sheet filed as Petitioner’s Exhibit 3, Attachment KLK-1 for approval by the Commission’s Water/Wastewater Division.

3. The above-authorized DSIC shall be subject to reconciliations as described in Paragraph 7.D. above.

4. Citizens Water shall comply with our directive regarding providing the OUCC with sufficient information and support as described and set forth in Paragraph 7.E. above.

5. The information filed in this Cause pursuant to Petitioner’s Motion for Protection and Nondisclosure of Confidential and Proprietary Information is deemed confidential pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29, is exempt from public access and disclosure by Indiana law, and shall be held confidential and protected from public access and disclosure by the Commission.

6. In accordance with Ind. Code § 8-1-2-70, Citizens Water shall pay the following itemized charges within 20 days from the date of this Order into the Commission public utility fund account described in Ind. Code § 8-1-6-2, through the Secretary of the Commission, as well as any additional costs that were incurred in connection with this Cause:

Commission Charges	\$ 1,649.21
OUCC Charges	\$ 17,623.59
Legal Advertising Charges	\$ 31.15
<b>TOTAL</b>	<b>\$ 19,303.95</b>

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

**HUSTON, BENNETT, FREEMAN, VELETA, AND ZIEGNER CONCUR:**

**APPROVED: NOV 22 2023**

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

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**Dana Kosco  
Secretary of the Commission**