

BEFORE THE

INDIANA UTILITY REGULATORY COMMISSION

**VERIFIED PETITION OF THE BOARD OF)
DIRECTORS FOR UTILITIES OF THE)
DEPARTMENT OF PUBLIC UTILITIES OF THE)
CITY OF INDIANAPOLIS, D/B/A CITIZENS)
THERMAL, FOR (1) AUTHORITY TO ADJUST ITS)
RATES AND CHARGES FOR STEAM UTILITY) CAUSE NO. 45855
SERVICE, (2) APPROVAL OF A NEW SCHEDULE)
OF RATES AND CHARGES, AND (3) APPROVAL OF)
CERTAIN REVISIONS TO ITS TERMS AND)
CONDITIONS APPLICABLE TO STEAM UTILITY)
SERVICE)**

STIPULATION AND SETTLEMENT AGREEMENT

On March 1, 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, d/b/a Citizens Thermal (“Citizens Thermal” or “Petitioner”) filed with the Indiana Utility Regulatory Commission (“Commission”) a Verified Petition requesting the relief set forth in the above-captioned proceeding along with its case-in-chief in support thereof. On May 8, 2023, the Citizens Thermal Customer Group (“Customer Group”)¹ filed a Petition to Intervene, which the Presiding Officers granted by Docket Entry dated May 25, 2023.

On June 7, 2023, the Indiana Office of Utility Consumer Counselor (“OUCC”) and the Customer Group filed their respective cases-in-chief. Subsequent to the filing of the OUCC’s and Customer Group’s testimony, Citizens Thermal, the OUCC, and the Customer Group (collectively the “Settling Parties”) conducted face-to-face meetings and otherwise communicated with each other regarding resolution of the issues in this

¹ For purposes of this proceeding, the Customer Group is comprised of the following Citizens Thermal customers: Indiana University – Indianapolis Campus, Indiana University Health, and Eli Lilly & Company.

proceeding through a settlement, subject to the Commission’s approval. On July 21, 2023, the Settling Parties notified the presiding Administrative Law Judge that a settlement in principle had been reached, subject to final client approval and memorialization in a formal settlement agreement. In a docket entry issued on July 27, 2023, the Commission established August 2, 2023, as the day by which a Settlement Agreement and supporting testimony would be filed and continued the evidentiary hearing in this Cause to August 23, 2023.

The Settling Parties, solely for purposes of compromise and settlement and having been duly advised by their respective staff, experts and counsel, stipulate and agree that the terms and conditions set forth in this Stipulation and Settlement Agreement (“Settlement Agreement”) represent a fair, just, and reasonable resolution of all matters raised in this proceeding, subject to incorporation by the Commission into a final, non-appealable order without modification or further condition that may be unacceptable to any Settling Party (“Final Order”).

I. Operating Revenues and Revenue Requirements

1. Citizens Thermal’s Operating Revenues. The Settling Parties agree that Citizens Thermal’s total *pro forma* annual operating revenues from present rates and charges are \$83,235,876. Upon the Commission’s adoption of a Final Order approving the terms and conditions of this Settlement Agreement, the Settling Parties agree that Citizens Thermal’s *pro forma* annual operating revenues should be increased by \$2,507,407 in order to arrive at agreed total annual operating revenues of \$85,743,283, representing a 3.01% increase in total operating revenue.

2. Citizens Thermal's Annual Revenue Requirements. Citizens Thermal's annual revenue requirements determined pursuant to Ind. Code § 8-1.5-3-8 on the evidence of record and agreed to by the Settling Parties is reflected in Attachment A, which is attached hereto and incorporated by reference herein, and is summarized, in part, below.

3. Operating and Maintenance Expenses. The Settling Parties agree that Citizens Thermal's annual revenue requirement for operating and maintenance ("O&M") expenses is \$25,633,734. Citizens Thermal, through compromise, agreed to reduce the annual amount of O&M expenses of \$25,704,228, proposed in its case-in-chief, by a total of \$40,494 to arrive at the agreed upon amount.

4. Extensions and Replacements. The Settling Parties agree that Citizens Thermal's annual revenue requirement for Extensions and Replacements ("E&R") is \$6,648,832. Citizens Thermal, through compromise, agreed to reduce the annual amount of E&R proposed in its case-in-chief of \$6,945,902 by a total of \$297,070 to arrive at the agreed upon amount.

5. Debt Service. The Settling Parties agree that Citizens Thermal's annual revenue requirement for debt service is \$8,051,168. Citizens Thermal, through compromise, agreed to reduce the annual amount of debt service proposed in its case-in-chief of \$11,094,381 by a total of \$3,043,633 to arrive at the agreed upon amount.

6. Executive Compensation. The OUCC and Customer Group did not challenge the level of executive compensation presented in Citizens Thermal's case-in-chief. Accordingly, the Settling Parties agree that: (i) the amount of executive compensation included in Citizens Thermal's revenue requirement is reasonable; and (ii) the final agreed upon revenue requirement as shown in Attachment A is reasonable as a collective package.

7. Other. Any revenue requirement matters not addressed by this Settlement Agreement will be as proposed by Citizens Thermal in its case-in-chief.

II. Cost of Service and Rate Design

8. Cost of Service Study. The Settling Parties agree that the annual revenue requirement shall be allocated between and among Citizens Thermal's customer classes based on the cost-of-service study prepared by Citizens Thermal's witness Scott A. Miller, which was filed in this Cause as Attachment SAM-1 to Petitioner's Exhibit No. 9, subject to the following adjustments:

a. Citizens Thermal will adjust its proposed cost-of-service study to reflect the classification of production and distribution plant on an 81% demand and 19% energy related basis; and

b. The adjustment will not impact Rate 3 customers.

9. The Settling Parties further agree that the foregoing adjustments to the cost of service study will be implemented to be revenue neutral to the steam utility.

10. The Settling Parties agree that the foregoing revenue requirement allocation has been done in a fair and reasonable manner; provided, however, the Settling Parties reserve all rights to challenge the allocations agreed to herein in future proceedings, and do not waive any rights to present alternative cost-of-service positions in future proceedings, including but not limited to those involving Citizens Thermal.

11. Rate 2 Standard Contract Provisions. Citizens Thermal's tariff for Steam Rate 2 – Demand Rate Service contemplates the use of a contract for Rate 2 Demand customers. For purposes of establishing a template steam service contract for Rate 2 customers, the Settling Parties agree to the following:

a. The Settling Parties recommend to the Commission for approval as reasonable, non-discriminatory, and just, the “Standard Contract for Rate 2 Demand Service” template as set forth in Attachment KLK-S1 to Petitioner’s Exhibit No. 11, the Verified Supplemental Testimony of Korlon L. Kilpatrick II (“Standard Contract”);

b. Citizens Thermal will provide to the Commission and OUCC on a regular basis, under confidential terms, all executed Option 2 Standard Contracts; and will make such contracts available through discovery to representatives of the Customer Group in subsequent proceedings pursuant to the terms of an appropriate Non-Disclosure Agreement; and

c. The establishment of the Standard Contract will apply prospectively and shall not apply nor impact any contracts entered into under the Steam Rate 2 – Demand Rate Service tariff that were in effect prior to the date of an Order being issued in this proceeding.

III. Other Agreements

12. Depreciation Study. Citizens Thermal will conduct a new depreciation study prior to its next rate case.

13. Fuel Cost Adjustment Cases (“FAC”). With respect to Citizens Thermal’s FAC proceedings, the Settling Parties agree that Citizens Thermal will continue the practice of affording the OUCC thirty (30) days to review Citizens Thermal’s filing and to file the OUCC’s testimony.

14. Other Matters. Any matters not addressed by this Settlement Agreement will be adopted as proposed by Citizens Thermal in its case-in-chief.

IV. Settlement Agreement -- Scope and Approval

15. Neither the making of this Settlement Agreement nor any of its provisions shall constitute in any respect an admission by any Settling Party in this or any other litigation or proceeding. The Settling Parties intend that neither the making of this Settlement Agreement, nor the provisions thereof, nor the entry by the Commission of a Final Order approving this Settlement Agreement, shall establish any principles or legal precedent applicable to Commission proceedings other than those resolved herein.

16. This Settlement Agreement shall not constitute nor be cited as precedent by any person or deemed an admission by any Settling Party in any other proceeding except as necessary to enforce its terms before the Commission, or any tribunal of competent jurisdiction. This Settlement Agreement is solely the result of compromise in the settlement process and, except as provided herein, is without prejudice to and shall not constitute an admission or waiver of any position that any of the Settling Parties may take with respect to any or all of the issues resolved herein in any future regulatory or other proceeding. Each of the Settling Parties has entered into this Agreement solely to avoid further disputes and litigation with the attendant inconvenience and expenses in this Cause. In accordance with the Order in *Re Petition of Richmond Power & Light*, Cause No. 40434, p. 10, the Settling Parties agree and ask the Commission to incorporate as part of its Final Order that this Settlement Agreement, or the Order approving it, not be cited as precedent by any person or deemed an admission by any party in any other proceeding except as necessary to enforce its terms before the Commission, or any court of competent jurisdiction on these particular issues.

17. The communications and discussions during the negotiations and conferences have been conducted based on the explicit understanding that the communications and discussions are or relate to offers of settlement and therefore are both privileged and inadmissible. All prior drafts of this Settlement Agreement and any settlement proposals and counterproposals also are or relate to offers of settlement and are both privileged and inadmissible.

18. This Settlement Agreement is conditioned upon and subject to Commission acceptance and approval of its terms in their entirety, without any change or condition that is unacceptable to any Settling Party. If the Settlement Agreement is not approved in its entirety by the Commission, the Settling Parties agree that the terms herein shall not be admissible in evidence or discussed by any party in a subsequent proceeding. Moreover, the concurrence of the Settling Parties with the terms of the Settlement Agreement is expressly predicated upon the Commission's approval of the Settlement Agreement in its entirety without any material modification or any material condition deemed unacceptable by any Settling Party. If the Commission does not approve the Settlement Agreement in its entirety, the Agreement shall be null and void and deemed withdrawn, upon notice in writing by any of the Settling Parties within fifteen (15) business days after the date of the Final Order that any modifications made by the Commission are unacceptable to it. In the event the Settlement Agreement is withdrawn, the Settling Parties will request an Attorneys' Conference to be convened to establish a procedural schedule for the continued litigation of this proceeding. If the Settlement Agreement is withdrawn, the Settling Parties agree that the terms herein shall not be admissible in evidence or cited by any party in a subsequent proceeding.

19. The Settling Parties stipulate that the evidence of record presented in this Cause constitutes substantial evidence sufficient to support the Settlement Agreement and provides an adequate evidentiary basis upon which the Commission may make any findings of fact and conclusions of law necessary for the approval of the Settlement Agreement, as filed.

20. Citizens Thermal and the OUCC shall, and the Customer Group may, offer supplemental testimony supporting the Commission's approval of this Settlement Agreement and will request that the Commission issue a Final Order incorporating the agreed proposed language of the Settling Parties and accepting and approving the same in accordance with its terms without any modification. Such supportive testimony will be agreed-upon by the Settling Parties and offered into evidence without objection by any Settling Party and the Settling Parties will waive cross-examination of each other's witnesses regarding such testimony.

21. The Settling Parties will support this Settlement Agreement before the Commission and request that the Commission accept and approve the Settlement Agreement. This Settlement Agreement is a complete, interrelated package and is not severable, and is conditioned on it being accepted and approved in its entirety without modification or further condition(s) that may be unacceptable to any Settling Party.

22. The Settling Parties will work together to prepare an agreed-upon proposed order to be submitted in this Cause. The Settling Parties will request that the Commission issue a Final Order promptly accepting and approving this Settlement Agreement in accordance with its terms.

23. The Settling Parties shall not appeal or seek rehearing, reconsideration or a stay of any Final Order entered by the Commission approving the Settlement Agreement in its entirety without changes or condition(s) unacceptable to any Settling Party (or related orders to the extent such orders are specifically and exclusively implementing the provisions hereof) and shall not oppose this Settlement Agreement in the event of any appeal or a request for rehearing, reconsideration or a stay by any person not a party hereto.

24. The undersigned have represented and agreed that they are fully authorized to execute the Settlement Agreement on behalf of their designated clients who will be bound thereby.

25. This Settlement Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute the same instrument.

Accepted and Agreed on this 2nd day of August, 2023.

The Board of Directors for Utilities of the Indiana Office of Utility
Department of Public Utilities of the City of Consumer Counselor
Indianapolis, as trustee of a public charitable trust,
d/b/a Citizens Thermal



An Attorney for the Indiana
Office of Utility Consumer
Counselor

An Attorney for Citizens Thermal
Citizens Thermal Customer Group

An Attorney for the Citizens Thermal Customer
Group

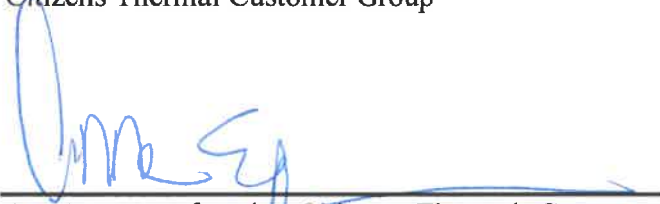
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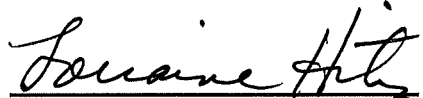


An Attorney for the Citizens Thermal Customer
Group

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The Board of Directors for Utilities of the
Department of Public Utilities of the City of
Indianapolis, as trustee of a public charitable trust,
d/b/a Citizens Thermal

Indiana Office of Utility
Consumer Counselor



An Attorney for the Indiana
Office of Utility Consumer
Counselor

An Attorney for Citizens Thermal
Citizens Thermal Customer Group

An Attorney for the Citizens Thermal Customer
Group

ATTACHMENT A

Citizens Thermal CN 45855 Comparison of Revenue Requirements

		A	B	C
		Petitioner Case-in-Chief	Settlement in Principle Offer	Differential
Revenue Requirements				
1	Fuel Costs	44,645,007	44,645,007	-
2	Operating Expenses ^a	25,704,228	25,663,734	(40,494)
3	Taxes	782,506	782,506	-
4	Extensions & Replacements	6,945,902	6,648,832	(297,070)
5	Debt Service	11,094,831	8,051,168	(3,043,663)
6	Total Revenue Requirements	89,172,474	85,791,247	(3,381,227)
7	Less: Other Income	47,964	47,964	-
8	Less: Other Expenses	-	-	-
9	Net Revenue Requirements	89,124,510	85,743,283	(3,381,227)
10	Less: Revenues at current rates subj. to incr.	83,235,876	83,235,876	-
11	Net Revenue Increase (Decrease) Req'd	5,888,634	2,507,407	(3,381,227)
12	Percent Increase (Decrease)	7.07%	3.01%	

^a This component includes Non-Fuel Cost of Goods. $\$20,795,633 + 4,868,101 = \$25,663,734$