

VERIFIED DIRECT TESTIMONY

of
JEFFREY A. WILLMAN

On
Behalf of
Joint Petitioners

CITIZENS REGIONAL WATER RESOURCES, LLC,
CITIZENS WATER, AND CITIZENS WATER OF WESTFIELD,
LLC

Cause No. 45896

Joint Petitioners' Exhibit No. 4

1 **I. INTRODUCTION AND BACKGROUND**

2 **Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A1. My name is Jeffrey A. Willman. My business address is 2150 Dr. Martin Luther King,
4 Jr. Street, Indianapolis, Indiana 46202.

5 **Q2. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A2. I am employed by the Board of Directors for Utilities of the Department of Public
7 Utilities of the City of Indianapolis (the “Board of Directors” or “Board”), which does
8 business as Citizens Energy Group (“Citizens Energy Group” or “Citizens”). Citizens
9 Energy Group manages and controls a number of regulated utilities, including Citizens
10 Water (“Citizens Water”), Citizens Water of Westfield, LLC (“Citizens Westfield”),
11 and Citizens Regional Water Resources, LLC (“CRW”) collectively (“Joint
12 Petitioners”). I serve as Vice President of Water Operations for Citizens Energy Group.
13 I am also the President of Citizens Water of Westfield and the President of CRW.

14 **Q3. PLEASE DESCRIBE THE DUTIES AND RESPONSIBILITIES OF YOUR**
15 **PRESENT POSITION.**

16 A3. I am responsible for directing the management, operation and maintenance of the water
17 system, which is owned by Citizens Energy Group, and the wastewater system, which
18 is owned by CWA Authority, Inc., and for identifying and planning necessary system
19 upgrades for those systems in conjunction with the Capital Programs and Engineering
20 (“CP&E”) group. I have similar responsibilities for the direction and management of
21 the water and wastewater systems that are wholly-owned subsidiaries of Citizens
22 Westfield Utilities, which is also an affiliate of Citizens Energy Group. I am

1 responsible for setting an appropriate course and strategic direction for the future of
2 these systems so they are positioned to continue to provide safe and reliable service
3 long-term.

4 **Q4. HOW LONG HAVE YOU BEEN EMPLOYED BY CITIZENS ENERGY**
5 **GROUP?**

6 A4. I have been employed by Citizens Energy Group since 2007.

7 **Q5. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL**
8 **BACKGROUND.**

9 A5. I graduated from the University of Evansville in 1987 with a Bachelor of Science
10 degree in Mechanical Engineering and from Butler University in 1992 with a Master
11 of Business Administration degree. Prior to my current position, I served in several
12 positions of increasing responsibility with Citizens Energy Group including: Director
13 Utility Systems Management (2007-2009), Director Customer Relationships (2009-
14 2011), Director External Affairs (2011-2014) and Executive Director Water Operations
15 (2014-2015). Prior to my employment with Citizens Energy Group, I was employed
16 by Indianapolis Power & Light Company ("IPL") for 18 years in various positions of
17 increasing responsibility, including Director of Business Development Steam
18 Operations (1996-1998), Director of Business Development (1998-2001), Director of
19 External Affairs (2001-2002), Director of Regulatory Affairs (2002-2003) and Director
20 of Corporate Affairs (2003-2006).

21 **Q6. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

22 A6. Yes. I have prepared and sponsored testimony in several cases including: Cause Nos.
23 45800 (CSM/Citizens Westfield), 45767-DSIC-1 (Citizens Water), 45628

1 (CWA/Shelby County CTA), 45582 (CWA/Shelby County), 45151 and 44685 (CWA
2 Rate Cases), Cause No. 44685-S1 (CWA Satellite Customer Subdocket Case), Cause
3 No. 44644 (Citizens Water Rate Case), Cause No. 44835 (Citizens Westfield
4 Wastewater Rate Case), and Cause No. 44149 (Citizens Thermal Perry K steam plant
5 coal to natural gas conversion). Additionally, I offered direct testimony for my
6 previous employer IPL in Service Quality (Cause No. 41962) and Demand Side
7 Management (Cause No. 40292) proceedings.

8 **Q7. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

9 A7. The purpose of my testimony is to provide information in support of the Verified
10 Petition filed by the Joint Petitioners in this proceeding, including describing the CRW
11 system and Citizens Energy Group's proposed management and operation of that
12 system. I also describe CRW's plans to provide the necessary water supply resources
13 for the City of Lebanon Utilities ("Lebanon Utilities") to serve the Limitless
14 Exploration/Advanced Pace or "LEAP" District, which will provide economic growth
15 to the State. In so doing, I discuss the agreements that CRW has entered into with
16 Lebanon Utilities, Citizens Water, and Citizens Westfield necessary to facilitate its
17 provision of those water supply resources. I further discuss how CRW's collaboration
18 to serve Lebanon Utilities will advance the State's policy of regional water supply
19 planning. Finally, I explain the other approvals that CRW is seeking to begin operating
20 as a water utility.

21 **Q8. ARE YOU SPONSORING ANY ATTACHMENTS TO YOUR TESTIMONY?**

22 A8. Yes. I am sponsoring the following Attachments:

- 1 • Joint Petitioners' Attachment JAW-1 - the Management and Operating Agreement
2 by and between Citizens Regional Water Resources, LLC and the Department of
3 Public Utilities of the City of Indianapolis d/b/a Citizens Energy Group;
- 4 • Joint Petitioners' Attachment JAW-2 - the Asset Use Agreement Between and
5 Among Citizens Regional Water Resources, LLC, Citizens Water and Citizens
6 Water of Westfield; and
- 7 • Joint Petitioners' Attachment JAW-3 – the Preliminary Project Plan, which
8 illustrates CRW's preliminary plans to supply water to Lebanon Utilities.

9 While the Water Supply Agreements that CRW has or will enter into with Citizens Water
10 and with Lebanon Utilities are being sponsored by Mr. Kilpatrick, I also discuss key
11 operational aspects of those agreements.

12 **II. TECHNICAL AND MANAGERIAL ABILITY**

13 **Q9. HOW WILL CRW BE OPERATED AND MANAGED?**

14 A9. Pursuant to the Management and Operating Agreement identified and included as
15 Attachment JAW-1 to my testimony, Citizens Energy Group will operate and manage
16 CRW in the same integrated manner that it manages the other utilities in the Citizens
17 Energy Group family of utilities. The Citizens Energy Group Water Operations
18 division will operate and maintain the CRW system in conjunction with its operations
19 of the Citizens Water and Citizens Westfield systems. The Water Operations division
20 is managed by an experienced management team that, in addition to myself as Vice
21 President of Water Operations, includes the following director level positions:

- 1 • Director of Water Production who is responsible for oversight of water treatment
2 plants for all of the Citizens Energy Group water systems;
- 3 • Director of Water Distribution who is responsible for oversight of the distribution
4 facilities for all of the Citizens Energy Group water systems;
- 5 • Director of Water Quality System Control and Planning who is responsible for the
6 oversight of water quality and system control functions for all the Citizens Energy
7 Group water systems; and
- 8 • Director Citizens Westfield Utilities who is responsible for the oversight of
9 Citizens' Westfield utility systems in a coordinated manner with the afore-
10 mentioned directors.

11 Operation and maintenance of the Citizens Energy Group water systems are carried out by
12 a skilled and well-trained workforce of approximately 175 employees who adhere to
13 industry standards to ensure that the Citizens Energy Group water systems provide safe
14 and reliable service to their customers. Under the leadership of Mark Jacob, Vice President
15 – Capital Programs and Engineering (“CP&E”) and Quality Systems, the capital needs for
16 CRW will be managed by Citizens Energy Group’s CP&E division as part of its
17 management and coordination of the entire portfolio of capital improvement projects for
18 all of Citizens Energy Group’s utilities. More specifically, Mr. Bruce Cooley, from our
19 CP&E group, has been assigned as the program manager for the capital works associated
20 with this project. Additionally, the rest of the Citizens Energy Group officer team consists
21 of a number of seasoned utility professionals who will bring extensive utility experience to
22 bear on CRW. Finally, back-office support for CRW will be provided by Corporate Shared

1 Services functions, such as accounting, human resources, environmental, information
2 technology, and customer service professionals.

3 **Q10. MR. WILLMAN, IN YOUR OPINION, DOES CITIZENS ENERGY GROUP**
4 **POSSESS THE TECHNICAL AND MANAGERIAL ABILITY NECESSARY**
5 **TO OPERATE AND MANAGE THE CRW SYSTEM?**

6 A10. Yes. For the foregoing reasons, we are well equipped to operate CRW. In fact, the
7 Indiana Economic Development Corporation (“IEDC”) sought to collaborate with
8 Citizens on its LEAP project due to our experience and expertise in the utility industry
9 generally and the water industry in particular. As Citizens Energy Group has continued
10 to expand its utility operations, the Indiana Utility Regulatory Commission
11 (“Commission”) has consistently found that Citizens has the managerial and technical
12 abilities to operate those additional systems and service territories. *See, e.g.*, Final
13 Orders in Cause No. 45628 (May 4, 2022); 45624 (Feb. 9, 2022); 44999 (Apr. 11,
14 2018); Cause No. 44273 (November 25, 2013); 43936 (July 13, 2011). The same
15 holds true here. Folding in a new water system that, as further described below,
16 has one wholesale customer and receives water from and uses the assets of our
17 other water utilities, which include the State’s largest water utility, is a natural
18 extension of our water utility operations.

19 **III. PROVISION OF WATER SERVICE TO LEBANON UTILITIES**

20 **Q11. PLEASE PROVIDE A BRIEF OVERVIEW OF CRW’S PLANS TO PROVIDE**
21 **WHOLESALE WATER SERVICE TO LEBANON UTILITIES.**

1 A11. Our overarching objective has been to structure this project in a way that allows for the
2 delivery of wholesale water from Citizens Water to Lebanon Utilities for the LEAP
3 District without exposing our existing customers and/or utility systems to project-
4 related risks or uncertainties should the LEAP project not develop as planned. The plan
5 and business structure we are proposing achieves that important objective. CRW is
6 being created to facilitate the delivery of wholesale water from Citizens Water to
7 Lebanon Utilities. CRW has agreed to provide up to 10 million gallons per day
8 (“MGD”) of finished drinking water to Lebanon Utilities on a wholesale basis at two
9 delivery points pursuant to the Water Supply Agreement that is identified and included
10 as Attachment KLK-2 to Mr. Kilpatrick’s testimony. CRW will acquire the water
11 needed to serve Lebanon Utilities from its wholesale Water Supply Agreement with
12 Citizens Water, which is identified and included as Attachment KLK-1 to Mr.
13 Kilpatrick’s testimony. To facilitate the availability, acquisition and transport of water
14 to Lebanon Utilities, CRW, Citizens Water, and Citizens Westfield will each construct
15 capital improvement projects to be paid for from a State Revolving Fund (“SRF”) loan,
16 which IEDC has agreed to pay the debt service on and retire within five years. The
17 capital projects that will be implemented to facilitate the supply of wholesale water to
18 Lebanon Utilities are described in Mr. Cooley’s testimony. Additionally, pursuant to
19 its Asset Use Agreement with Citizens Water and Citizens Westfield, which is
20 identified and included as Attachment JAW-2 to my testimony, CRW has the right to
21 use and pass water through the Citizens Water and Citizens Westfield systems to
22 support the delivery of wholesale water service to Lebanon Utilities.

1 **Q12. WHAT ARE THE KEY OPERATIONAL TERMS OF THE WATER SUPPLY**
2 **AGREEMENT BETWEEN CRW AND LEBANON UTILITIES?**

3 A12. The Water Supply Agreement between CRW and Lebanon Utilities is a consecutive
4 system-type of agreement. Some of the key operational terms of the Water Supply
5 Agreement include the following:

- 6 • The initial term of the Agreement with Lebanon Utilities is for twenty-five (25)
7 years, with the opportunity to extend the term for an additional fifteen years through
8 subsequent extension terms.
- 9 • CRW and Lebanon Utilities have both agreed to construct the necessary
10 infrastructure to be able to respectively supply the water to and distribute it from
11 the Delivery Points to end use locations within the LEAP District. These Delivery
12 Points are shown in Attachment JAW-3 and Exhibit A to Attachment KLK-2.
- 13 • CRW will deliver water to the Delivery Points, subject to the volume requirements
14 and delivery dates as follows: up to 6.0 MGD by the Phase I Delivery Date, which
15 is estimated to occur on January 1, 2026, unless CRW provides notice of a revised
16 Delivery Date; and up to 10.0 MGD by the Phase II Delivery Date, which is
17 estimated to occur on January 1, 2027, unless CRW provides written notice of a
18 revised Delivery Date.
- 19 • For water quality purposes, upon the occurrences of the Phase I and Phase II
20 Delivery Dates, Lebanon Utilities has agreed to minimum monthly purchase
21 volumes and monthly payments corresponding to 0.4 MGD for Phase I and 0.8
22 MGD for Phase II.

- 1 • CRW will own and be responsible for the water quality, water distribution and
2 supply infrastructure upstream from the two designated Delivery Points and
3 Lebanon Utilities will own and be responsible for the distribution infrastructure and
4 water quality downstream from the Delivery Points.
- 5 • Generally, CRW will supply water to the Delivery Points at a minimum pressure
6 of 35 pounds per square inch gauge (35) psig and at a flow rate of no more than
7 4,167 gallons per minute (in aggregate at the Delivery Points) after the Phase I
8 Delivery Date and of no more than 6,944 gallons per minute (in aggregate at the
9 Delivery Points) after the Phase II Delivery Date.
- 10 • The Agreement with Lebanon Utilities contains certain protections for the parties,
11 including contingencies for the construction of the contemplated infrastructure
12 based on the receipt of the necessary financing and loan guarantees from Indiana
13 Finance Authority (“IFA”) and IEDC, respectively, along with other provisions
14 regarding water service in the event of diminished supply or other emergencies.

15 **Q13. HOW DOES THE WATER SUPPLY AGREEMENT WITH CITIZENS**
16 **WATER ENABLE CRW TO MEET ITS SUPPLY OBLIGATIONS TO**
17 **LEBANON UTILITIES?**

18 A13. The Water Supply Agreement with Citizens Water expressly contemplates and is
19 written in a way that reflects CRW’s water supply obligations to Lebanon Utilities.
20 Importantly, the Water Supply Agreement with Citizens Water has similar volume
21 requirements whereby Citizens Water will use reasonable efforts to provide up to 6
22 MGD and up to 10 MGD of water to its Delivery Points with CRW, as shown on JAW-
23 3 and Exhibit A to the Water Supply Agreement, by the Phase I and Phase II Delivery

1 Dates, respectively, subject to adjustment as needed. Citizens Water and CRW have
2 also agreed to cooperate in the operation and development of their systems. This should
3 not be an issue since, as discussed above, both systems will be operated by Citizens
4 Energy Group's Water Operations division. Finally, the Water Supply Agreement with
5 Citizens Water contains similar protections, including contingencies for the
6 construction of the contemplated infrastructure based on the receipt of the necessary
7 financing and loan guarantees from IFA and IEDC, respectively, along with other
8 provisions regarding water service in the event of diminished supply or other
9 emergencies.

10 **Q14. HOW DOES THE ASSET USE AGREEMENT WITH CITIZENS WATER AND**
11 **CITIZENS WESTFIELD ENABLE CRW TO MEET ITS SUPPLY**
12 **OBLIGATIONS TO LEBANON UTILITIES?**

13 A14. Under the Asset Use Agreement, CRW has agreed, through the use of the SRF loan
14 proceeds guaranteed by IEDC, to pay for the additions and improvements ("Assets")
15 that Citizens Water and Citizens Westfield will need to construct for CRW to be able
16 to meet its water supply obligations to Lebanon Utilities. These infrastructure
17 investments constitute system upsizing and expansions that are specifically needed to
18 serve CRW and are in addition to any investments previously planned for the Citizens
19 Water or Citizens Westfield systems. For Citizens Water, that contribution is projected
20 to be \$75,000,000, which includes funds for, among other things, the expansion of its
21 White River North Treatment Plant by about 10 MGD, the construction of main
22 extensions, and booster stations. For Citizens Westfield that contribution is projected
23 to be \$25,000,000, and includes funds for, among other things, the upsizing of a main

1 extension that Citizens Westfield had planned to undertake and construction of a new
2 water main to the Boone County line. In exchange for these contributions and system
3 upgrades, Citizens Water and Citizens Westfield will allow CRW to use the Assets to
4 meet its supply obligations to Lebanon Utilities. Attachment JAW-3 illustrates our
5 preliminary plans for CRW to deliver wholesale water to Lebanon Utilities at two
6 metered Delivery Points and the corresponding infrastructure upgrades for CRW,
7 Citizens Water and Citizens Water of Westfield. Of course, our preliminary supply
8 plans will be further refined with additional design work in coordination with Lebanon
9 Utilities' system requirements.

10 **Q15. IN YOUR OPINION, ARE THE FOREGOING AGREEMENTS IN THE**
11 **PUBLIC INTEREST?**

12 A15. Yes, and therefore, they should be approved by the Commission. All of these
13 Agreements are interrelated pieces that are designed to fit together to achieve the
14 overarching purpose of supplying water to the LEAP District, and therefore, further the
15 economic policy goals of the State. Importantly, the Agreements contain provisions
16 that protect the Citizens Energy Group utilities in the event of certain contingencies
17 and allow Citizens Energy Group to operate CRW, Citizens Water, and Citizens
18 Westfield in a coordinated manner. Finally, Mr. Kilpatrick supports the reasonableness
19 of the Water Supply Agreements from a rates perspective.

20 **IV. REGIONAL WATER SUPPLY PLANNING**

21 **Q16. PLEASE PROVIDE AN OVERVIEW OF CITIZENS' LONG-TERM WATER**
22 **RESOURCE PLANNING PROCESS.**

1 A16. Citizens' planning process involves an annual review and update of water supply
2 projects that may be implemented over the next 50 years to meet the needs of a growing
3 Central Indiana region. The process includes long-term (50 yr) peak day demand
4 projections for the Citizens Water system (plus a 10% reserve margin) and the
5 sequencing of specific water supply projects that may be implemented to meet future
6 demand requirements in a reliable and cost-effective manner. Future water supply
7 projects are evaluated based on several criteria including, but not limited to, system
8 reliability and customer affordability with a preference for projects with lower \$/MGD
9 cost rankings. The planning process allows Citizens Water to effectively plan and
10 sequence future water supply projects and coordinate those projects with long-term
11 transmission and distribution planning efforts. As mentioned previously, Citizens'
12 long-term water supply plans are reviewed and updated annually to reflect recent water
13 use trends and long-term demand projections. If short and/or long-term demand
14 forecasts increase, the sequenced water supply projects will be accelerated and/or new
15 projects will be added. Likewise, if demand forecasts decline, the supply projects will
16 be re-sequenced to reflect the slower system growth. By continuously reviewing and
17 updating long-term water supply plans, we can adjust to periodic changes and ensure
18 supply investments are timed for completion consistent with system needs to serve our
19 growing communities in the most reliable and affordable manner possible.

20 **Q17. DOES CITIZENS WATER HAVE ADEQUATE WATER SUPPLY TO**
21 **PROVIDE WATER TO CRW TO SERVE LEBANON UTILITIES?**

22 A17. Yes. Providing 10 MGD of water to Lebanon Utilities will not adversely impact our
23 ability to meet the long-term water supply needs of a growing Central Indiana region.

1 Considering Citizens Water's current system capacity is 256 MGD, a 10 MGD supply
2 for Lebanon Utilities would represent a relatively small (3.9%) increase for the system
3 overall. As described previously, the long-term water supply plans are reviewed and
4 updated annually to consider and adjust for demand forecast changes such as the
5 additional 10 MGD supply to CRW for Lebanon Utilities. In response to this specific
6 10 MGD demand increase for Lebanon Utilities, a previously planned expansion of our
7 White River North treatment plant will be increased from 15 MGD to 25 MGD to
8 accommodate the specific supply needs of CRW and the incremental cost will be
9 funded by CRW with proceeds from the SRF loan proceeds backed by IEDC. This is
10 exactly how Citizens' long-term planning process is intended to work, namely, by
11 adjusting project timing and/or scope to reflect current and projected market conditions.

12 **Q18. DOES PROVIDING WATER TO LEBANON UTILITIES THROUGH CRW,**
13 **AND IN TURN, CITIZENS WATER FURTHER THE STATE'S POLICY OF**
14 **REGIONAL WATER SUPPLY PLANNING?**

15 A18. Yes. Integrating the CRW system with the existing Citizens Energy Group water
16 utilities will expand the area over which Citizens Energy Group manages water utility
17 operations and water supply planning, resulting in even greater optimization of water
18 resources, efficient operation of utility assets, and assurance that area water supply
19 demands will be met. Our proposed plan will also bring a much-needed water supply
20 to the I-65 corridor in Boone County and enable economic growth in that area. The
21 lack of adequate surface water and groundwater resources along the I-65 corridor
22 between Zionsville and Lafayette has been a major concern for both Boone County and

1 State officials for many years and a limiting factor for the growth and development of
2 that portion of the Central Indiana region.

3 **V. OTHER APPROVALS**

4 **Q19. ARE ANY OTHER APPROVALS NEEDED FOR CRW TO BEGIN**
5 **OPERATIONS?**

6 A19. Yes. CRW is required to have a Public Water System Identification (“PWSID”)
7 number issued by the Indiana Department of Environmental Management (“IDEM”).
8 Once the PWSID is issued, IDEM approval is required prior to constructing CRW’s
9 physical assets.

10 **Q20. WHAT STEPS NEED TO BE UNDERTAKEN TO COMPLETE THE PWSID**
11 **APPLICATION PROCESS?**

12 A20. CRW is required to submit a water system management plan that meets the
13 requirements of 327 IAC 8-3.6. The water system management plan describes CRW’s
14 technical, financial, and managerial capacities to operate the proposed public water
15 system. We are still preparing the plan and anticipate submitting it around the late May
16 – early June 2023 timeframe. IDEM then has up to 120 days after submission to review
17 the plan.

18 **VI. CONCLUSION**

19 **Q21. PLEASE SUMMARIZE YOUR TESTIMONY.**

20 A21. I recommend that the Commission approve the approvals being sought in this
21 proceeding. Citizens Energy Group has the managerial and technical ability to operate
22 CRW and, through its proposed plan, will do so in a way that fulfills CRW’s supply


1 obligations to Lebanon Utilities while protecting Citizens Energy Group's other water
2 utilities from project-related risks. CRW's plan to serve the LEAP District will help
3 promote the State's economic and regional water supply planning goals.

4 **Q22. DOES THAT CONCLUDE YOUR DIRECT TESTIMONY?**

5 A22. Yes.

VERIFICATION

The undersigned affirms under the penalties for perjury that the foregoing testimony is true to the best of his knowledge, information and belief.

A handwritten signature in cursive script, appearing to read "Jeffrey A. Willman", is written above a horizontal line.

Jeffrey A. Willman

MANAGEMENT AND OPERATING AGREEMENT

This Management and Operating Agreement (“Agreement”) is entered into by and between the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis d/b/a Citizens Energy Group (“Citizens”) and Citizens Regional Water Resources, LLC (the “Company”) (Citizens and the Company each a “Party” and collectively the “Parties”).

WHEREAS, Citizens operates a variety of utility systems serving the City of Indianapolis, Indiana, and surrounding communities in Central Indiana, including a water utility system, doing business as Citizens Water;

WHEREAS, certain third-parties own and operate municipal water utility systems for the benefit of their respective residents and customers;

WHEREAS, the Company is intended to offer and provide services including but not limited to services related to providing water utility service to third-parties; and

WHEREAS, Citizens desires to provide management, operational and certain other services to the Company, to aid the Company with respect to its own respective obligations to serve third-parties, and the Company desires to obtain such services from Citizens.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties agree as follows:

ARTICLE I. TERM AND TERMINATION

Section 1.01 Term. The term of this Agreement shall commence on the date the Company acquires and/or assumes, by executed contract, any responsibility related to provide water utility services (the “Services”), or upon full execution of this Agreement by the Parties, if later, and shall continue until terminated in accordance with the terms of this Agreement.

Section 1.02 Termination. This Agreement may be terminated by mutual written agreement of the Parties.

Section 1.03 Effect of Termination. Upon termination, all rights and obligations of the Parties under this Agreement will automatically terminate except for rights and obligations that expressly or by their nature are intended to survive termination, including but not limited to, Company’s obligation to pay Citizens for any services previously rendered under the terms of this Agreement.

ARTICLE II. Services

Section 2.01 Provision and Acceptance of Services. Citizens shall furnish services necessary or desirable for the Company to provide the Services, including procuring and managing the provision of goods and services from experts, consultants, advisers, contractors, vendors and other persons. The Company agrees to accept the provision of such services from Citizens and such other services, whether or not now contemplated, that are necessary or desirable for the Company to provide the Services.

Section 2.02 Contracts. Citizens may enter into any contracts in carrying out its responsibilities under this Agreement and may enter into such contracts as agent for the Company.

Section 2.03 Personnel. Citizens shall utilize and have supervision over all persons (including third parties) that Citizens deems necessary or desirable to perform its duties and responsibilities hereunder. Citizens may use its employees to perform its obligations hereunder.

ARTICLE III. COMPENSATION AND ACCOUNTING

Section 3.01 Compensation. As compensation for the services rendered pursuant to this Agreement, the Company shall pay all costs incurred by Citizens that are directly assigned, distributed or allocated to the Company. Citizens shall, to the extent practicable, identify services provided specifically for the benefit of the Company and directly assign the costs, including but not limited to capital expenditures, of those services to the Company. To the extent direct assignment of costs incurred by Citizens for services provided is not practicable, such costs shall be allocated among the Company and other operations under the control of Citizens in proportion to the costs incurred by the Company as a result of such services being provided to each respective operation, utilizing an appropriate cost allocation methodology. It is the intent of the Parties that the compensation Citizens receives hereunder for services it provides for the benefit of the Company shall pay all costs incurred by Citizens that are directly assigned, distributed or allocated to the Company, including but not limited to materials, office supplies and miscellaneous general expenses, outside services employed, amortization and depreciation or capital expenditures.

Section 3.02 Monthly Statement. Citizens shall render a monthly statement to the Company setting forth the information necessary to identify the costs assigned, distributed or allocated to the Company for the prior month.

ARTICLE IV. INDEMNIFICATION AND INSURANCE

Section 4.01. Indemnification. Inasmuch as the only compensation Citizens will receive for services provided hereunder is the reimbursement of costs it incurs as set forth in Article III hereof, the Company agrees to defend, indemnify and hold harmless Citizens, directly and in its capacity as trustee of any public charitable trust in which it serves in such capacity, and each of its

affiliates and their respective employees, officers, trustees, directors and agents (the "Indemnified Persons") from and against any and all claims arising from or relating to any and all suits, actions, investigations, proceedings, demands, assessments, audits and judgments arising out of Citizens' or the Company's performance under this Agreement.

Section 4.02 Subordination of Indemnification Obligation. The indemnification obligation of the Company hereunder shall be subordinate to any debt service obligations of Citizens or the Company.

ARTICLE V. MISCELLANEOUS

Section 5.01 Successors and Assigns. Neither Party hereto shall assign or delegate this Agreement or any rights or obligations hereunder without the prior written consent of the other Party hereto, and any attempted assignment or delegation without prior written consent shall be void and of no force or effect.

Section 5.02 Severability. If any provision of this Agreement shall be held to be in contravention of applicable law, this Agreement shall be construed as if such provisions were not a part thereof, and in all other respects the terms hereof shall remain in full force and effect; provided, however, that if, as a result of the severability of a provision or provisions, the Agreement operates to deprive either Party of the substantial value of its bargain, the Parties agree to negotiate diligently and in good faith to make such changes in the Agreement or, to enter into a new agreement with such changes, as are necessary to restore the bargain through incorporating terms which are not in contravention of applicable law and will allow the Agreement to continue.

Section 5.03 No Third Party Beneficiaries. This Agreement is not intended to confer upon any person other than the Parties hereto any rights or remedies.

Section 5.04 Governing Law. This Agreement and all of the rights of the Parties under this Agreement shall be governed by, construed under and enforced in accordance with the laws of the State of Indiana without regard to conflict of laws and principles.

Section 5.05 Corporate Authorization. Each person executing this Agreement on behalf of the Company and Citizens represents and certifies that he or she is fully empowered to execute this Agreement and that all necessary corporate action to authorize the execution of this Agreement has been taken by his or her respective organization.

Section 5.06 Binding. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and to their respective successors and lawful assignees.

Section 5.07 Headings. The headings used for the Articles and Sections of this Agreement are for information purposes and convenience only and shall not be deemed a part of this Agreement.

IN WITNESS WHEREOF the Parties have caused their authorized representatives to execute this Agreement.

BOARD OF DIRECTORS FOR
UTILITIES OF THE DEPARTMENT OF
PUBLIC UTILITIES OF THE CITY OF
INDIANAPOLIS, D/B/A CITIZENS
ENERGY GROUP

CITIZENS REGIONAL WATER
RESOURCES, LLC

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

ASSET USE AGREEMENT

BY AND BETWEEN

CITIZENS REGIONAL WATER RESOURCES, LLC

and

CITIZENS WATER

and

CITIZENS WATER OF WESTFIELD, LLC

This ASSET USE AGREEMENT (“Use Agreement”) is made and entered into as of the ___ day of __, 2023 (the “Effective Date”), by and between Citizens Regional Water Resources, LLC (“CRW”), the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities, as trustee, in furtherance of a public charitable trust for the water system d/b/a Citizens Water (“Citizens Water”), and Citizens Water of Westfield, LLC (“Westfield”) (CRW, Citizens Water, and Westfield each a “Party” and collectively the “Parties”):

RECITALS

WHEREAS, CRW is a public utility regulated by the Indiana Utility Regulatory Commission (“Commission” or “IURC”), engaged in the business of providing treated water in Central Indiana (the “CRW Water Utility Services”); and

WHEREAS, Citizens Water is a municipally owned water utility regulated by the Commission, engaged in the business of providing water utility service to the public in Central Indiana, and owning assets used and useful to provide such water utility service; and

WHEREAS, Westfield is a public utility regulated by the Commission, engaged in the business of providing water utility service to customers in and around the City of Westfield, Indiana, and owning assets used and useful to provide such water utility service; and

WHEREAS, CRW has asked Citizens Water and Westfield to make available certain of their assets for the benefit of CRW, and Citizens Water and Westfield are willing to permit such use pursuant to the terms and conditions set forth herein; and

WHEREAS, in particular, in order to provide wholesale water service to its customer, CRW has entered into an agreement with Citizens Water for Citizens Water to provide CRW with the necessary water, and to facilitate the provision of such water to CRW, including through CRW’s use of both Westfield’s and Citizens Water’s assets as described herein, CRW will contribute, subject to adjustment as needed, funding in the approximate amount of Seventy-Five Million Dollars (\$75,000,000) to Citizens Water and Twenty-Five Million Dollars (\$25,000,000) to Westfield for additions and improvements to Citizens Water’s and Westfield’s existing system and infrastructure; and

WHEREAS, CRW, Citizens Water and Westfield have agreed upon the general terms and conditions under which Citizens Water and Westfield would make available such assets, and the Parties wish to set forth such agreement in writing in this Use Agreement.

NOW, THEREFORE, in consideration of the foregoing, and the respective covenants and agreements of the Parties contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Term of Agreement; Termination for Default

- 1.1 The initial term ("Term") of this Use Agreement shall commence on the Effective Date and shall continue until terminated as set forth herein or by mutual agreement of the Parties.
- 1.2 In the event CRW fails to fulfill its obligations thereby committing a default under this Use Agreement ("Default") and fails to cure such Default following a reasonable period of time after receiving notice of such Default from Citizens Water or Westfield, Citizens Water or Westfield may terminate this Use Agreement upon 90 days' written notice to CRW.

2. Scope

Citizens Water and Westfield agree to design, secure permitting and any necessary real estate interests for, and to construct, operate, maintain, repair and, as needed, replace, water supply infrastructure that will be beneficial to the provision of the CRW Water Utility Services (collectively, the "Assets"). Such Assets shall (i) be owned by Citizens Water and Westfield respectively, as part of their water utility systems; (ii) enable Citizens Water to comply with volume requirements in the Water Supply Agreement agreed to between CRW and Citizens Water; and (iii) include any necessary hydrants, valves, fittings, gaskets, meters, meter vaults, mains, pump stations, tanks, booster stations and the like, all of which shall at all times remain property of Citizens Water or Westfield respectively. CRW's funding for the Assets is the subject of separate agreements between CRW, the Indiana Finance Authority ("IFA") and the Indiana Economic Development Corporation ("IEDC"). For the avoidance of doubt, the Parties agree that Citizens Water's and Westfield's obligations under this Use Agreement are contingent upon CRW providing the necessary funding to Citizens Water and Westfield for the Assets.

3. Use of Assets

- 3.1 Citizens Water, Westfield and CRW agree that in recognition for the funding CRW will provide Citizens Water and Westfield, each Party will have the right to use the Assets to facilitate the provision of the CRW Water Utility Services, including but not limited to delivery of treated water to City of Lebanon Utilities ("Lebanon Utilities"), as set forth in a separate Supply Agreement between CRW and Lebanon Utilities and consistent with the separate Water Supply Agreement between CRW and Citizens Water.

3.2 While CRW has a right to use the Assets the Parties agree that at all times the Assets shall be owned, operated and maintained by Citizens Water and Westfield respectively.

4. Commission Approval/Mutual Cooperation

4.1 This Use Agreement is subject to and contingent upon Commission approval.

4.2 This Use Agreement is subject to the pertinent laws, regulations and rules of the State of Indiana, but not including Indiana's choice of law provisions, and its administrative agencies, and where permits, certificates or approvals may be required for operations or otherwise to effectuate this Use Agreement, the Parties agree to work together in good faith to assist each other to secure such permits, certificates or approvals as the case may be. Each Party shall be responsible for its own costs associated with regulatory matters unless otherwise expressly agreed.

4.3 To the extent required now or in the future, the Parties will cooperate in good faith to obtain the approval of the Commission for this Use Agreement.

5. Default and Remedies

In addition to the rights of Citizens Water and Westfield set forth in Section 1.2, above, either Party retains all remedies available to it in law and equity for the material breach of this Use Agreement by another Party, subject to a reasonable opportunity to cure any such breach after receiving written notice of the breach from the aggrieved Party.

6. Improvements, Alterations and Liens

CRW shall make no alterations to the Assets without Citizens Water's or Westfield's prior written consent. Any changes made by CRW shall become and remain the property of Citizens Water or Westfield respectively. CRW covenants and agrees that it has no power to incur any indebtedness giving a right to a lien of any kind or character upon the right, title and interest of Citizens Water or Westfield in and to the Assets covered by this Use Agreement.

7. Sale or Other Transfer by CRW Prohibited

This is an agreement for the use of assets only, and nothing herein shall be construed as conveying to CRW any right, title or interest in or to any assets except as set out hereunder. CRW shall have no right to sell, trade, encumber, or otherwise transfer the Assets.

8. Indemnity

Each Party ("Indemnifying Party") shall protect, defend, indemnify, and save harmless the other Party ("Indemnified Party") from and against all liabilities, obligations, claims, damages, penalties, causes of action, cost and expenses imposed upon or incurred by or asserted against the Indemnified Party by reason of the Indemnifying Party's negligent or intentionally wrongful use of the Assets, to the extent of such negligent or intentionally wrongful act or omission.

9. Notice and Communications

Unless any section of this Use Agreement specifically requires otherwise, any notice, claim, demand, or communication required or appropriate to be given in connection with this Use Agreement or to be served, given, or made in connection with it, shall be made in writing, by reputable overnight courier, or by registered or certified mail, return receipt requested, postage prepaid, to the parties at the following addresses:

For CRW: To Highest Officer Found, 2020 N. Meridian St.
Indianapolis, IN 46202

For Citizens Water: To Senior Vice President & General Counsel, 2020 N. Meridian St.
Indianapolis, IN 46202

For Westfield: To Secretary, 2020 N. Meridian St.
Indianapolis, IN 46202

10. Binding Agreement/Assignment

The Parties acknowledge that the provisions contained within this Use Agreement are binding upon and inure to the benefit of the Parties hereto, and upon the Parties' respective successors and assigns. Neither Party shall assign this Use Agreement without the prior written consent of the other Party, but such consent shall not be unreasonably withheld.

11. No Third Party Beneficiaries or Rights

Nothing in this Use Agreement shall be construed as creating any legal, equitable, or beneficial interest or any right or entitlement that inures to the benefit of any person or entity not a party of this Use Agreement or to vest in any such third party any interest with respect to the enforcement of this Agreement. It is specifically agreed between the Parties executing this Use Agreement that it is not intended by any of the provisions of any part hereof to create in the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this Use Agreement to maintain a claim or suit for any alleged injuries or damages arising out of or related to this Use Agreement or any Party's alleged breach of any provision hereof.

12. Non-Waiver

The delay or failure by either Party to exercise or enforce any right under this Use Agreement shall not constitute or be deemed a waiver of such right or any other right under this Use Agreement. No waiver by either Party of any breach of this Use Agreement by the other Party shall constitute or be deemed a waiver of any subsequent breach.

13. Severability

If any term or provision of this Use Agreement is found by a court of competent jurisdiction or an administrative body with jurisdiction to be invalid, illegal or otherwise unenforceable, the remaining provisions shall remain in full force and effect.

14. Survival

The provisions of this Use Agreement that by their nature extend beyond the termination or expiration of this Agreement will survive termination or expiration of this Use Agreement.

15. Entire Agreement

This Use Agreement constitutes the entire understanding between the Parties and supersedes all prior proposals and communications, whether oral or written, with respect to the subject matter hereof.

16. Headings

The titles and headings of the sections and paragraphs hereof are for convenience only and shall not be deemed a part hereof or affect the construction or interpretation of any provision hereof.

17. Authority and Counterparts

Each Party and signatory hereto has the authority to enter into the Use Agreement and at all times has full authority to bind his or her respective Party to perform this Use Agreement. This Use Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument.

IN WITNESS WHEREOF, the undersigned certify that they are duly authorized and empowered to execute this Asset Use Agreement and thus bind the entity in whose behalf each signs as of the Effective Date.

“CITIZENS WATER”

By: _____

Title: _____

“CITIZENS WATER OF WESTFIELD”

By: _____

Title: _____

“CRW”

By: _____

Title: _____

Petitioner's Exhibit No. 4, Attachment JAW-3

This Attachment is confidential and will be provided to the Commission upon the issuance of a Docket Entry making a preliminary finding of confidentiality.