

ORIGINAL

Commissioner	Yes	No	Not Participating
Huston	√		
Freeman		√	
Krevda	√		
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 1

APPROVED: NOV 23 2022

ORDER OF THE COMMISSION

Presiding Officers:

David E. Ziegner, Commissioner

Loraine L. Seyfried, Chief Administrative Law Judge

On September 9, 2022, 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 11, 2022, the Indiana Office of the Utility Consumer Counselor (“OUCC”) filed its Report in response to Citizens Water’s DSIC application, which consisted of the testimony and exhibits of Margaret A. Stull, Chief Technical Advisor in the Water/Wastewater Division.

On October 18, 2022, Citizens Water filed the rebuttal testimony of Mr. Kilpatrick, accepting certain recommendations of the OUCC and responding to others.

The Commission held an Evidentiary Hearing in this Cause on October 24, 2022, at 1:30 p.m. in Room 224 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 were admitted into evidence without objection. OUCC witness Stull revised her pre-

filed testimony at the evidentiary hearing and her amended testimony, which was admitted into evidence over Petitioner's objection. Mr. Kilpatrick was also present and made available for cross-examination by the OUCC and offered rebuttal to Ms. Stull's revised testimony.

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. 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. 4, ¶ 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.¹ Therefore, for purposes of Ind. Code ch. 8-1-31, 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. Relief Requested. Petitioner seeks approval of a DSIC 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. Petitioner proposes to implement a DSIC designed to generate total revenues in the amount of \$15,049,155. Citizens Water's proposed monthly rate adjustment for a customer with a 5/8-inch meter (the typical size for residential customers) is \$2.87.

4. Petitioner's Direct Evidence. Petitioner presented the testimony and attachments of Mr. Willman, Mr. Jacob, and Mr. Kilpatrick.

A. Description of DSIC Improvements. Mr. Willman testified that to keep providing safe and reliable service, Petitioner's aging water system requires a level of investment that exceeds the amount for E&R that Petitioner is currently recovering through its revenue

¹ 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.

requirement. He stated Citizens Water currently has the opportunity to recover approximately \$42,500,000 in base rates for annual cash-funded E&R. However, since its 2017 fiscal year, Citizen Water's annual capital investments have averaged approximately \$56,100,000. Mr. Willman stated that the disparity between recent capital investment levels and the amount of E&R being recovered through rates is due in part to the increasing need to replace aging distribution infrastructure. Additionally, he noted Citizens Water's capital costs have increased due to a significant increase in utility relocations for public improvement projects.

Mr. Willman testified that, like many water utilities across the nation, Citizens Water faces an "aging infrastructure" problem. He stated that portions of the water system are over 100 years old and require significant investment to ensure safe and reliable service into the future. He said prior to Petitioner's acquisition of the water system, the problem of aging distribution infrastructure was virtually ignored. However, since the acquisition, Citizens Water has taken steps to increase distribution system investment levels, replace aging and failing infrastructure, and improve the overall reliability and integrity of the system.

Mr. Willman noted that under Ind. Code ch. 8-1-31 ("DSIC Statute"), for municipally owned utilities, eligible infrastructure improvements now include projects that "are or will be" extensions or replacements. He testified this allows for cost recovery not only of those projects that have been completed but also for eligible projects that will be completed. Mr. Willman stated that all the E&R project costs included in the calculation of Petitioner's DSIC are for completed projects only but noted future DSIC filings may include both completed and prospective projects.

Mr. Jacob sponsored Petitioner's Exhibit 2, Attachments MCJ-1 and MCJ-5, which contained, respectively, a summary of eligible improvements as well as a list of the meter, valve, hydrant, and service replacements included in this Cause. He 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 the Commission authorized be included in Petitioner's E&R revenue requirement. He stated Petitioner's average spend from fiscal years 2017 through 2021 was \$56,100,000, which exceeds the revenue requirement approved in Citizens Water's last rate case. Per the Commission's April 20, 2016 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 \$7,000,000 was to be funded through debt. Accordingly, beginning in approximately 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 testified Petitioner included as "eligible infrastructure improvements" projects that "are" extensions or replacements of projects and noted the projects included represent only improvements placed in service between October 2017 and September 2021. He further testified the projects 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 stated the costs included in this proceeding relate to the replacement of service lines, valves, hydrants, and meters and were recorded in the National Association of Regulatory Utility Commissioners Uniform System of Accounts ("USOA") accounts 331, 333, 334, and 335. He said the total cost of the eligible infrastructure improvements included in the calculation of the

DSIC 1 surcharge is \$15,049,155. A certain level of meter, valve, hydrant, and service line replacement cost was included in Citizens Water's revenue requirement, but Mr. Jacob stated Petitioner has needed to spend more than that amount every year since 2017 to replace failing meters, valves, hydrants, and service lines.

Mr. Jacob described the process Citizens Water undertook to ensure the cost of the projects on Attachment MCJ-1 was not being recovered or had not already been recovered through rates or some other mechanism. He provided a table showing that Citizens Water recovers approximately \$3,700,000 annually for meter, valve, hydrant, and service line replacements through rates, but stated Petitioner has had to spend approximately \$8,000,000 per year on those projects, which represents an increase, on average, of \$4,000,000 per year over the amounts being collected in revenues. Mr. Jacob also described how the service lines, valves, hydrants, and meters were selected for replacement and testified none of the projects shown on Attachment MCJ-1 resulted in an increase in revenues resulting from the connection of new customers.

B. Calculation of DSIC 1. Mr. Kilpatrick supported the calculation of the requested DSIC to Citizens Water's basic rates and charges to provide for recovery of the infrastructure improvement costs. He sponsored Petitioner's Exhibit 3, Attachment KLK-1, Petitioner's proposed DSIC rate schedule tariff, and Petitioner's Exhibit 3, Attachment KLK-2, the calculation of the DSIC 1 adjustment revenues and the monthly fixed charges based on meter size.

Mr. Kilpatrick testified the total expected E&R cost included in the calculation of DSIC 1 is \$15,049,155. He stated monthly fixed customer charges as required by Ind. Code § 8-1-31-8 were developed using the Meter Size method as described in American Water Works Association, Principles of Water, Rates, Fees and Charges (M1) Manual. Under the Meter Size approach, 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). Ultimately, Mr. Kilpatrick determined the monthly rate adjustment for a customer with a 5/8-inch meter (the typical size for residential customers) is \$2.87.

Mr. Kilpatrick stated that at the end of a 12-month period following the date on which the Commission initially approves the DSIC 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. He stated that because this is Petitioner's first DSIC filing, the 12-month recovery period will not be complete prior to a possible DSIC 2 filing. As such, Mr. Kilpatrick recommended the initial reconciliation be for the months ending in July 2023. Thereafter, Mr. Kilpatrick recommended the reconciliation period be the 12 months of August through July.

Mr. Kilpatrick described the 10% cap in the DSIC Statute and testified the revenues generated by DSIC 1 do 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. If total DSIC revenues are divided by the total base water revenue requirement \$200,083,163, Mr. Kilpatrick said the resulting percentage is 7.52%, which is below the 10% cap.

Finally, Mr. Kilpatrick sponsored Petitioner's Exhibit 3, Attachment KKK-3, which was the notice provided to Citizen Water's sale for resale customers by United States registered mail, informing them of this filing.

5. OUCC's Evidence. The OUCC presented the testimony and attachments of Ms. Stull.

Ms. Stull noted that Citizens Water presented hundreds of projects for inclusion in its DSIC. Due to the 30-day time limitation under the DSIC Statute, Ms. Stull testified the OUCC was unable to form an opinion as to the reasonableness or prudence of the proposed eligible infrastructure improvements. Accordingly, Ms. Stull testified that a more thorough review could take place during Citizens Water's next base rate case.

Ms. Stull explained how Petitioner's DSIC application differs from a DSIC application filed by an investor-owned utility. She noted Petitioner is not asking for recovery of prospective expenses but is seeking reimbursement of costs it has already incurred. Ms. Stull stated Citizens Water seeks authority to increase its rates and charges to recover \$15,049,155 of actual eligible utility plant expenditures incurred from October 2017 through September 2021.

Ms. Stull disagreed with Citizens Water's calculation of the total revenues to be compared against the 10% cap. She noted Mr. Kilpatrick did not adjust Petitioner's authorized revenues for Petitioner's July 25, 2016 Compliance Filing and the removal of utility receipts taxes. Ms. Stull stated that Citizens Water's adjusted operating revenues are \$197,313,323. Therefore, Petitioner's proposed DSIC represents a 7.63% increase over base rates and charges, which she noted does not exceed the 10% cap.

Ms. Stull noted the DSIC Statute allows a utility to file a petition for a change in its initial adjustment amount no more often than one time every 12 months, but a utility is not required to do so. She expressed concern that Petitioner could implement its proposed DSIC and leave it in place until Petitioner files its next base rate case, which would result in significant over-collection. She testified that Citizens Water represents it has spent an average of approximately \$3,500,000 per year more on eligible infrastructure projects than the amount included in Cause No. 44644. However, she said, the \$15,049,155 that Petitioner proposes to recover annually would recover expenditures incurred over a four-year period. She also noted that Citizens Water has not requested a DSIC to cover ongoing prospective eligible infrastructure improvement costs.

Ultimately, Ms. Stull disagreed with Citizens Water's proposal to recover four years of capital expenditures with an annual charge calculated to recover these costs within 12 months and with no planned termination of that charge. She testified the OUCC proposes Citizens Water recover its \$15,049,155 expenditure over four years, reflecting the average annual increase in eligible infrastructure improvements. Ms. Stull said that recovering these costs over four years better reflects the annual cost associated with these expenditures and mitigates the rate impact to customers, making the rate increase more affordable. She testified Citizens Water does not need to recover the \$15,049,155 of eligible expenditures within a year, noting Petitioner has not demonstrated it is short of cash or in danger of not having the funds necessary to operate its utility in a safe and reliable manner if it does not recover the expenditures within one year.

Ms. Stull recommended a \$0.72 monthly infrastructure improvement charge per equivalent 5/8" meter (\$2.87/4 years). She stated her recommended infrastructure improvement charge is designed to provide \$3,762,289 of additional annual E&R operating revenue and represents an annual 1.907% ($\$3,762,289/\$197,313,323$) increase in water utility operating revenues over the rates approved in Cause No. 44644.

Ms. Stull stated the DSIC Statute neither establishes nor prohibits termination of a charge such as that requested by Citizens Water. She said because Citizens Water has only sought to justify recovery of past eligible expenditures, it would be inconsistent with a reasonable interpretation of the statute for the Commission to permit the charge to continue once the expenditures have been fully recovered through the charge.

Ms. Stull also disagreed with Citizens Water's proposal to have the initial reconciliation be for the months ending in July 2023. She stated Ind. Code § 8-1-31-14 explicitly provides that the reconciliation process begins after the first 12 months of the charge. Accordingly, Ms. Stull recommended that reconciliation should not occur until November or December of 2023 depending on when an Order is issued in this Cause. She testified Citizens Water will be eligible to file its next DSIC on or after September 9, 2023.

Ms. Stull also recommended the Commission amend its current DSIC rule at 170 IAC 6-1.1 as appropriate to address the changes in the DSIC Statute related to charges for municipally owned and not-for-profit utilities.

6. Petitioner's Rebuttal Evidence. Mr. Kilpatrick testified Petitioner reviewed and accepts certain of Ms. Stull's recommendations but disagrees with her recommendation that the Commission require Citizens Water to defer recovery of the infrastructure improvement costs over a four-year period.

Mr. Kilpatrick testified Ms. Stull is correct that once utility receipts taxes are removed from the authorized revenues approved in Cause No. 44644, the DSIC represents a 7.63% increase over current base rates and charges. However, Mr. Kilpatrick noted that 7.63% does not exceed the 10% cap imposed by the DSIC Statute. Mr. Kilpatrick stated Petitioner further agrees with Ms. Stull that once the cost of the eligible infrastructure improvement projects has been fully recovered, the DSIC would terminate—unless another DSIC charge has been approved in a subsequent proceeding. He testified it is not Citizens Water's intent to recover the cost of the same projects twice and provided a discovery response submitted by Citizens Water to the OUCC indicating such intent.

Mr. Kilpatrick further stated Citizens Water is willing to agree to Ms. Stull's recommendation regarding the timing of DSIC reconciliation and will be able to file its next DSIC on or after September 9, 2023. Mr. Kilpatrick also did not oppose Ms. Stull's suggestion that the Commission consider amending 170 IAC 6-1.1; but stated if the Commission determines it is necessary to amend the DSIC rules, Citizens Water would like the opportunity to participate in that proceeding.

As for the OUCC's recommendation that cost recovery for the eligible infrastructure improvements be deferred over a four-year period, Mr. Kilpatrick testified that this

recommendation creates an artificial second cap on recovery of costs that is not provided for under the DSIC Statute. He testified the DSIC Statute already provides for a 10% cap under Ind. Code § 8-1-31-13. Further, Mr. Kilpatrick stated the DSIC Statute is based around 12-month recovery periods, noting Ind. Code § 8-1-31-14 provides that at the end of each 12-month period following the date on which the Commission initially approves the DSIC amounts, the utility must 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 by not recovering the \$15,049,155 of total additional operating revenues it is entitled to under the DSIC Statute for four years, Citizens Water would be foregoing capital that could be used for other necessary purposes, including further investments in aging infrastructure.

7. Commission Discussion and Findings.

A. The DSIC Statute. The DSIC Statute was first enacted in 2000 and created 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, p. 21 (IURC Feb. 27, 2003). Municipally owned utilities have been authorized to file a petition for a DSIC since the DSIC Statute was enacted.² 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.

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 (1) new water or wastewater utility distribution or collection plant projects or projects to relocate existing utility plant, (2) that 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.

² However, this is the first request for a DSIC filed by a municipally owned utility.

- (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). The revenues that can be recovered through a particular DSIC are limited by Ind. Code § 8-1-31-13(a), which provides:

The commission may not approve a petition filed under section 8 or 10 of this chapter to the extent it would produce total adjustment revenues exceeding 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.

The cap set forth in Ind. Code § 8-1-31-13(a), however, does not apply to (a) 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, or (b) property taxes associated with the improvements. Ind. Code § 8-1-31-13(b).

Finally, in determining the amount of allowable recovery of infrastructure improvement costs for a municipally owned utility, the Commission is required to consider the following factors:

- (1) 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).
- (2) Debt service on funds borrowed to pay for eligible infrastructure improvements.
- (3) Depreciation expenses on eligible infrastructure improvements based on the same rate or rates of depreciation approved by the commission for the calculation of depreciation in the utility's more recent rate case.
- (4) Other components that the commission considers appropriate.

Ind. Code § 8-1-31-11.5.

B. Commission Rules. When a utility files a petition seeking authority to implement a DSIC, the Commission's rules at 170 IAC 6-1.1-5 set forth the required supporting documentation. After the utility files its petition, the OUCC may 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 is authorized to examine the utility's information to determine whether: (1) the system improvements are in accordance with the rule's requirements; and (2) the utility properly calculated the proposed DSIC. 170 IAC 6-1.1-6.

OUCC witness Stull recommended the Commission revise its rules as necessary to address changes in the DSIC Statute for municipally owned and not-for-profit utilities. The Commission recognizes its rules are outdated and should be amended to specifically address recent statutory changes. Accordingly, the Commission is taking steps to begin the process for amending its rules and soon will be notifying interested parties of the opportunity to participate in that rulemaking process.

C. Eligible Infrastructure Improvements. In this proceeding, Citizens Water seeks authority to recover \$15,049,155 in costs associated with improvements that were placed in service between October 2017 and September 2021. Petitioner's evidence demonstrates the improvements satisfy the criteria set forth in Ind. Code § 8-1-31-5 to be considered eligible infrastructure improvements. Mr. Jacob testified the improvements are extensions or replacements of water utility distribution plant projects; 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. In addition, consistent with 170 IAC 6-1.1-2, Mr. Jacob testified 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. Mr. Jacob further testified that the eligible infrastructure improvements do not result in the addition of new customers to Citizens Water's system.

OUCC witness Stull did not take issue with any of Petitioner's projects but did note that due to the expedited statutory time frame, it could not complete a review of the reasonableness of the projects and such review may occur when Petitioner files its next base rate case. Nor did the OUCC contest the total amount of Citizens Water's proposed infrastructure improvement costs. Instead, the OUCC, through its proposed order, argues that the DSIC Statute does not allow a municipally owned utility to recover costs related to completed projects. The OUCC asserts that because a municipally owned utility's E&R requirement in its rates is established prospectively based on the revenues needed to meet its ongoing operational needs, Petitioner's projects have already been paid for through the utility's rates. However, in recognition that Petitioner has incurred \$15,049,155 in infrastructure improvement costs over the past four years and expects to continue completing such E&R projects in the future, the OUCC recommended a DSIC designed to recover \$3,762,289 ($\$15,049,155/4$ years) of additional annual E&R operating revenue.

While we agree with the OUCC that a municipally owned utility's E&R revenue requirement in a base rate case under Ind. Code § 8-1.5-3-8(c) is established on a prospective basis, the plain language of the DSIC Statute allows a municipally owned utility to recover the cost of projects that *are or will be* extensions or replacements of projects. Ind. Code § 8-1-31-5(3)(B)(i). Thus, a municipally owned utility may recover: (1) the cost of projects that have been completed, and therefore *are* extensions or replacements; or (2) the cost of future projects that *will be* extensions or replacements. In further support of this conclusion is the additional requirement in Ind. Code § 8-1-31-5(3)(B)(ii) that the improvement not be included on the utility's balance sheet as plant in service in the utility's most recent general rate case. If the DSIC Statute was intended

to include only prospective projects, there would be no need to include this provision since future projects would not be reflected on the utility's balance sheet as plant in service.

Accordingly, based on the evidence of record, we find that Petitioner's projects are eligible infrastructure improvements.

D. Recovery of Infrastructure Improvement Costs. Pursuant to Ind. Code § 8-1-31-8, Citizens Water requests recovery of the \$15,049,155 associated with the E&R projects through a DSIC, which it calculated as a monthly fixed charge based upon meter size. *See* Pet. Ex. 3, Attachment KLK-2.

Infrastructure improvement costs, as defined in Ind. Code § 8-1-31-5.5, includes “[a]dequate 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).” The OUCC did not dispute Petitioner's calculation of the monthly fixed charges. Rather, the OUCC recommended the DSIC be divided by four and recovered over four years. In support of its position, Ms. Stull explained that allowing recovery of the \$15,049,155 in additional expenditures over four years reflects Petitioner's average annual increase in eligible infrastructure improvements. Moreover, she stated that (1) recovering these costs over four years better reflects the annual cost associated with these expenditures; (2) a four-year recovery period mitigates the rate impact to customers, making the rate increase more affordable; and (3) Citizens Water has not demonstrated a “need to recover the \$15,049,155 of eligible expenditures within a year.” OUCC Ex. 1 at 7-8.

Citizens Water opposed the OUCC's recommendation, arguing that it creates a second cap to the 10% cap already provided for in Ind. Code § 8-1-31-13. Petitioner's witness Kilpatrick also asserted that the DSIC Statute is based around 12-month recovery periods and there is nothing in the statute that supports amortization of the calculated DISC over a period longer than one year.

In determining the amount of allowable recovery of infrastructure improvement costs, Ind. Code § 8-1-31-11.5 authorizes the Commission to consider four factors—only two of which are relevant here. First, the Commission may consider adequate money for making extensions and replacements of eligible infrastructure improvements to the extent not provided for through depreciation, as provided in Ind. Code § 8-1.5-3-8(c). Second, the Commission may consider other components that it considers appropriate.

Based on the evidence presented and consideration of these two factors, we find Citizens Water should be authorized to recover the \$15,049,155 in infrastructure improvement costs over a four-year period. We find Petitioner's recovery of its infrastructure improvement costs in this manner to be reasonable for several reasons.

First and foremost, Petitioner incurred these costs over a four-year period and therefore, it is reasonable for the recovery period to match the accrual period. Matching the recovery period with the accrual period is consistent with the municipally owned utility rate-setting methodology provided for in Ind. Code § 8-1.5-3-8(c), which provides for E&R on an annual basis. And, although the DSIC Statute created an exception to traditional ratemaking by allowing recovery of past costs, it did not alter the fundamental methodology of rate-setting. As Petitioner's witness

Kilpatrick observed, the DSIC Statute is based around 12-month recovery periods. The most likely reason for this is because utility rates are designed to recover 12 months of utility costs. On a basic level, when Petitioner's base rates were established, the rates were based on the utility's annual costs divided by its annual volume of water sold with consideration of meter sizes for fixed charges. Here, Petitioner proposes to recover 48 months of its costs over 12 months. Therefore, it is appropriate that Petitioner recover through its DSIC an annual average of those costs over the next 4 years.

Second, authorizing recovery of the infrastructure improvement costs over four years mitigates the rate impact to customers, which is supported by Ind. Code § 8-1-2-0.5 establishing the state of Indiana's policy to promote utility planning and investment in infrastructure while protecting the affordability of utility services.

And third, matching the recovery period to the accrual period of such costs will encourage utilities to timely file DSIC petitions rather than deferring costs for an extended period before filing a DSIC petition. Timely filed requests for DSICs serves the public interest by allowing the utility to recover costs closer in time to when the costs are incurred (or projected to be incurred), protecting the affordability of customer rates, and encouraging appropriate and needed investment in utility infrastructure.³

In addition, contrary to Petitioner's assertion, the Commission's determination concerning the recovery period for the amount of infrastructure improvement costs approved in this DSIC proceeding does not create a second cap. Rather, consistent with the rate-setting requirements provided in Ind. Code § 8-1.5-3-8(c), the Commission is authorizing an adjustment amount based on the annual cost that is incremental to the amount of E&R associated with the eligible infrastructure improvements included in the revenue requirement approved in Petitioner's most recent base rate case. By authorizing this recovery, the Commission has not established any cap on the total adjustment amount for which Petitioner has requested approval.

Petitioner incurred its total adjustment amount of \$15,049,155 over a 48-month period and therefore, recovery of an annual adjustment amount of \$3,762,289 over a similar 48-month period is appropriate. There is nothing in the DSIC Statute that requires the recovery of the total adjustment revenues over a 12-month period. Instead, the amount of allowable recovery is left to the Commission's determination based on the factors enumerated in Ind. Code § 8-1-31-11.5, which the Commission has addressed above.

E. Revenues from DSIC Do Not Exceed 10% Cap. Ind. Code § 8-1-31-13 prohibits the Commission from approving a DSIC if it would produce total adjustment revenues exceeding 10% of the base revenue level approved in Citizens Water's most recent general rate case. As set forth above, Petitioner's approved annual revenue requirement for water customers for DSIC 1 is \$3,762,289. Citizens Water's adjusted operating revenues are \$197,313,323. OUCC's Exhibit 1, Attachment MAS-1. Accordingly, Citizens Water's approved DSIC represents a 1.91% increase over current base rates and charges.

³ While we recognize the DSIC Statute was amended in 2022 to identify additional infrastructure improvement costs, Citizens Water has had the opportunity to file a petition for a DSIC since the statute was enacted.

Therefore, based on the evidence presented, the total adjustment revenues that will be provided by Petitioner's approved DSIC do not exceed the 10% cap imposed by the DSIC Statute.

F. Reconciliation of DSIC. Petitioner should be prepared to reconcile the DSIC approved in this Order as required by Ind. Code § 8-1-31-14 and 170 IAC 6-1.1-8. At the end of each 12-month period a DSIC is in effect, the difference between the revenues produced by the DSIC and the approved annual adjustment amount of \$3,762,289 reflected in it should be reconciled and the difference either refunded or recovered through an adjustment of the DSIC. In the event the reconciliation is filed after Citizens Water files its DSIC-2 proceeding, which could occur in September of 2023, the reconciliation can be filed as an addition to or subtraction from the DSIC-2 rate as a separate rate rather than calculating a new single DSIC-2 rate.

G. Termination of DSIC. OUCC witness Stull testified that Citizens Water is not seeking to establish a charge to recover ongoing eligible expenses but is instead seeking to recover past eligible expenditures. Therefore, it would be inconsistent with a reasonable interpretation of the DSIC Statute for the Commission to permit the DSIC to continue once the expenditures have been fully recovered through the charge. In rebuttal, Citizens Water witness Kilpatrick testified Citizens Water agrees that once the approved infrastructure improvement costs have been fully recovered, the DSIC would terminate—unless another DSIC charge has been approved in a subsequent proceeding.

Accordingly, based on the evidence of record, we find that once the infrastructure improvement costs approved herein totaling \$15,049,155 have been fully recovered, the DSIC shall terminate, unless another DSIC has been approved in a subsequent proceeding.

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 annual DSIC revenues of \$3,762,289 is approved.
2. Prior to implementing the above-authorized DSIC, Citizens Water shall file a revised Rider B tariff sheet consistent with Finding Paragraph 7.D. above for approval by the Commission's Water/Wastewater Division.
3. At the end of each 12-month period a DSIC is in effect, Citizens Water shall make a compliance filing reconciling the difference between the revenues produced by the DSIC and the approved annual adjustment amount of \$3,762,289 and either refunding or recovering the difference through an adjustment of the DSIC as described in Finding Paragraph 7.F. above.
4. Once the infrastructure improvement costs approved herein totaling \$15,049,155 have been fully recovered, the DSIC shall terminate, unless another DSIC has been approved in a subsequent proceeding.
5. 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	\$ 6,314.58
OUCG Charges	\$ 7,971.65
Legal Advertising Charges	\$ 28.86
TOTAL	\$14,315.09

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

HUSTON, KREVDA, VELETA, AND ZIEGNER CONCUR; FREEMAN DISSENTS:

APPROVED: NOV 23 2022

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

Dana Kosco
Secretary of the Commission