

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF INDIANA-AMERICAN )  
WATER COMPANY, INC. FOR (1) )  
AUTHORITY TO INCREASE ITS RATES )  
AND CHARGES FOR WATER UTILITY )  
SERVICE, (2) REVIEW OF ITS RATES )  
AND CHARGES FOR WASTEWATER )  
UTILITY SERVICE, (3) APPROVAL OF )  
NEW SCHEDULES OF RATES AND )  
CHARGES APPLICABLE TO WATER )  
AND WASTEWATER UTILITY SERVICE, )  
AND (4) AUTHORITY TO IMPLEMENT A )  
LOW INCOME PILOT PROGRAM. )

CAUSE NO. 45142

SUBMISSION OF SETTLING PARTIES' PROPOSED ORDER

Petitioner, Indiana-American Water Company, Inc. ("Indiana American"), by counsel and on behalf of itself and the Office of Utility Consumer Counselor ("OUCC"), and Intervenor the Indiana-American Water Company Industrial Group ("Industrial Group"), Citizens Action Coalition ("CAC"), Indiana Community Action Association, Inc. ("INCAA"), City of Crown Point, Indiana ("Crown Point"), Town of Schererville, Indiana ("Schererville"), Town of Whiteland, Indiana ("Whiteland") and the Sullivan Vigo Rural Water Corporation ("Sullivan Vigo") (collectively the "Settling Parties") hereby submits the Settling Parties' Proposed Order in the above-referenced Cause.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing has been served upon the following via electronic mail this 12<sup>th</sup> day of April, 2019 to:

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<b>AND (4) AUTHORITY TO IMPLEMENT A</b>	)	
<b>LOW INCOME PILOT PROGRAM.</b>	)	

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**Sarah Freeman, Commissioner**

**David Ober, Commissioner**

**Carol Sparks Drake, Senior Administrative Law Judge**

On September 14, 2018, Indiana-American Water Company, Inc. (“Petitioner,” “Indiana American” or “Company”) filed its *Petition for General Rate Increase and Associated Relief under Ind. Code § 8-1-2-42.7, Notice of Provision of Information in Accordance with the Minimum Standard Filing Requirements and Request for Administrative Notice* (“Petition”) with the Indiana Utility Regulatory Commission (“Commission”), seeking authority to (i) increase its rates and charges for water service rendered by it, and (ii) implement a low income pilot program. Petitioner also requested a review of its rates and charges for wastewater utility service and approval of new schedules of rates and charges applicable to water and wastewater utility service. That same day Indiana American also filed testimony and exhibits from the following witnesses:

- Deborah Dewey, President of Indiana American
- Douglas Brock, Vice President, Operations
- Stacy Hoffman, Director of Engineering
- Gregory Shimansky, Director, Rates & Regulatory
- Nikole Bowen, Senior Manager of Regulatory Services for American Water Works Service Company, Inc. (“Service Company”)

- Gregory Roach, Senior Manager of Revenue Analytics for the Service Company
- Connie Heppenstall, Senior Project Manager, Rate Studies, Gannett Fleming Valuation and Rate Consultants, LLC
- Charles Rea, Director, Rates & Regulatory for the Service Company
- Ann Bulkley, Senior Vice President, Concentric Energy Advisors, Inc.
- Scott Rungren, Principal Regulatory Analyst for the Service Company
- John Wilde, Vice President – Tax for the Service Company
- Robert Mustich, Managing Director and East Region Rewards Business Leader, Willis Towers Watson
- Patrick Baryenbruch, President, Baryenbruch & Company LLC

On September 14, 2018, Indiana American also filed its first Motion for Protection and Nondisclosure of Confidential and Propriety Information supported by affidavits from Nikole Bowen and Gregory Shimansky. By Docket Entry filed on October 2, 2018, preliminary confidential treatment was granted for the information that was the subject of the Motion, apart from the names of Indiana American’s chemical suppliers.

Petitions to Intervene were filed on September 19, 2018, by the City of Crown Point (“Crown Point”), the Town of Schererville (“Schererville”), the Citizens Action Coalition of Indiana (“CAC”) and Sullivan-Vigo Rural Water Corporation (“Sullivan-Vigo”); on October 1, 2018 by a group of industrial customers of Indiana American (“Industrial Group”); on October 3, 2018 by the Town of Whiteland (“Whiteland”); and on October 31, 2018 by the Indiana Community Action Association, Inc. (“INCAA”) (collectively, the “Intervenors”). The Commission issued Docket Entries granting each of said petitions to intervene; thus, all the entities requesting intervention were made parties to this Cause. The Indiana Office of Utility Consumer Counselor (“OUCC”) also participated.

Pursuant to notice and as provided in 170 IAC 1-1.1-15, the Commission held a Prehearing Conference at 3:00 p.m. on October 4, 2018, in Hearing Room 224, 101 West Washington Street, Indianapolis, Indiana. Notice of the Prehearing Conference was given and published as required by law. Proofs of publication of the notice have been incorporated into the record and placed in the official files of the Commission. Petitioner, the OUCC, Crown Point, Schererville, Whiteland, CAC, INCAA and Sullivan-Vigo appeared and participated at the Prehearing Conference. No members of the general public appeared or sought to participate.

The procedural, scheduling and other matters determined at the Prehearing Conference were memorialized in the Commission’s Prehearing Conference Order approved and issued on October 24, 2018.

Pursuant to Ind. Code § 8-1-2-61(b), a public field hearing was conducted on November 7, 2018, in the City of Seymour. On November 26, 2018, a field hearing was also conducted in the City of Gary, which is the largest municipality in Petitioner's service area. During the public field hearings, members of the public provided oral and/or written testimony in this Cause.

On December 21, 2018, the OUCC, the Industrial Group, Crown Point, Schererville, Whiteland and CAC/INCAA prefiled their respective cases-in-chief and/or direct testimony. The OUCC's prefiled case-in-chief included testimony and attachments from the following witnesses:

- Margaret Stull, Chief Technical Advisor in the Water/Wastewater Division
- Richard Corey, Utility Analyst in the Water/Wastewater Division
- Thomas Malan, Utility Analyst in the Water/Wastewater Division
- Scott Bell, Director of the Water/Wastewater Division
- Edward Kaufman, Assistant Director of the Water/Wastewater Division
- James Parks, Utility Analyst II in the Water/Wastewater Division
- Ralph Smith, Senior Regulatory Consultant, Larkin & Associates, PLLC
- Jerome Mierzwa, Principal and Vice President, Exeter Associates, Inc.

Mr. Bell sponsored written consumer comments pertaining to this docket and the relief requested as Attachment SAB-3 to his testimony.

The Industrial Group's prefiling on December 21, 2018, included testimony and attachments from the following witnesses:

- Michael Gorman, Managing Principal, Brubaker & Associates, Inc.
- Jessica York, Consultant – Public Utility Regulation, Brubaker & Associates, Inc.

Crown Point prefiled testimony from the following witnesses:

- Gregory Guerrettaz, President, Financial Solutions Group, Inc.
- William Seelye, Managing Partner, The Prime Group, LLC

The towns of Schererville and Whiteland prefiled testimony from the following witness:

- Chris Ekrut, Director – Environmental Practice and Vice President of Corporate Services, NewGen Strategies & Solutions, LLC

CAC and INCAA prefiled testimony from the following witness:



- Kerwin Olson, Executive Director, Citizens Action Coalition of Indiana, Inc.

On January 3, 2019, Indiana American filed its Second Motion for Protection and Nondisclosure of Confidential and Proprietary Information supported by an affidavit from John Wilde. On January 4, 2019, Indiana American filed its Third Motion for Protection and Nondisclosure of Confidential and Proprietary Information supported by affidavits from Stacy Hoffman and Gregory Shimansky. By Docket Entry on January 14, 2019, preliminary confidential treatment was granted for the information that was the subject of Petitioner's Second Motion for Protection. On January 17, 2019, Petitioner filed its Supplement to Third Motion for Protection to provide additional information regarding what information included in the Direct Testimony of James Parks Indiana American deemed confidential. Petitioner filed its Fourth Motion for Protection and Nondisclosure of Confidential and Proprietary Information supported by affidavits from Stacy Hoffman, John Wilde and Ann Bulkley. By Docket Entry on January 22, 2019, the Commission granted preliminary confidential treatment for the information that was the subject of Petitioner's Third Motion for Protection and Supplement to Third Motion for Protection.

On January 22, 2019, Indiana American prefled rebuttal testimony, exhibits, and workpapers for the witnesses Dewey, Hoffman, Shimansky, Brock, Roach, Bowen, Wilde, Bulkley, Rea, Rungren, Heppenstall and Kerry A. Heid, P.E. On the same day, the OUCC filed cross-answering testimony and exhibits of Mr. Mierzwa, the Industrial Group filed cross-answering testimony and exhibits of Ms. York, Crown Point filed cross-answering testimony and exhibits of Mr. Seelye, Schererville and Whiteland filed cross-answering testimony and exhibits of Mr. Ekrut, and Whiteland filed cross-answering testimony of Norm Gabehart.

The Presiding Officers issued a Docket Entry on January 29, 2019, granting preliminary confidential treatment for the information that was the subject of Petitioner's Fourth Motion for Protection, apart from the information redacted in the "Hours" column of Attachment NLB-3R. On January 31, 2019, Petitioner filed its Second Supplement to Third Motion for Protection and Nondisclosure of Confidential and Proprietary Information to clarify that Attachments JTP-10 and JTP-11 contain confidential cost and bid information. By Docket Entry on January 31, 2019, the Commission granted preliminary confidential treatment for Attachment JTP-10 and JTP-11.

The Presiding Officers issued a Docket Entry on February 8, 2019 requesting Indiana American to provide additional information in advance of the hearing. Indiana American filed its response on February 12, 2019.

On February 13, 2019, the parties filed a Joint Agreed Motion to Continue Evidentiary Hearing requesting that the Commission continue the hearing scheduled for Thursday, February 14, 2019 and Friday, February 15, 2019, to afford the parties time to engage in settlement discussions. On February 14, 2019, the hearing was continued on the record until February 18, 2019.

On February 14, 2019, the Presiding Officers issued a Docket Entry requesting Indiana American to provide additional information. Indiana American filed its response on February 14, 2019.

The parties filed a Joint Agreed Motion to Additional Continuance of Evidentiary Hearing on February 15, 2019 requesting the Commission to continue the evidentiary hearing scheduled for Monday, February 18, 2019 to Monday, February 25, 2019, to afford the parties additional time to engage in settlement discussions. On February 18, 2019, the evidentiary hearing was continued on the record until February 25, 2019. On February 21, 2019, the parties filed a Joint Status Report and Agreed Motion for Additional Continuance of Evidentiary Hearing to provide an update to the Commission on the status of the parties' settlement negotiations and to continue the hearing to afford the parties additional time to allow review of all details and memorialize the settlement. On February 22, 2019, the Presiding Officers issued a Docket Entry continuing the hearing until February 26, 2019 and requesting that the parties clarify their February 21<sup>st</sup> Motion to state with specificity whether a settlement had been reached on all issues and among all parties, and to explain the status of the settlement agreement, among other things.

On February 25, 2019, the parties filed a Joint Notice for Leave to File Settlement Agreement and Request for Settlement Hearing. On February 26, 2019, the evidentiary hearing was continued on the record and converted to a settlement hearing to be held on April 11, 2019. On March 18, 2019, Petitioner filed a Stipulation and Settlement Agreement (the "Settlement"), including attachments, among Petitioner, the OUCC, the Industrial Group, Crown Point, Schererville, Whiteland, CAC, INCAA, and Sullivan-Vigo (collectively, the "Settling Parties") with respect to all issues raised in this Cause. On that same day, Petitioner filed Settlement Testimony from Gregory Shimansky, the OUCC filed Settlement Testimony from Margaret Stull and Jerome Mierzwa, and Crown Point filed Settlement Testimony from Gregory Guerrettaz.

On April 4, 2019, the Presiding Officers issued a Docket Entry requesting Indiana American to provide additional information. Indiana American filed its response on April 5, 2019. On April 5, 2019, the Presiding Officers issued a Docket Entry directing Indiana American to assure it has a witness at the settlement hearing who is prepared to answer the Commission's questions regarding Indiana American's Low Income Pilot Program and other questions the Presiding Officers may pose at the hearing.

On April 11, 2019 a settlement hearing was held and the parties' evidence, including the Settlement and supporting testimony, was admitted into the record in this Cause without objection.

Having considered all of the evidence presented in this proceeding, based on the applicable law and evidence, the Commission now finds:

**1. Notice and Jurisdiction.** Due, legal and timely notice of the Petition filed in this Cause was given and published by Petitioner as required by law. Proper and timely notice was given by Petitioner to its customers summarizing the nature and extent of the proposed changes in its rates and charges for water service. Due, legal and timely notices of the public hearings in this Cause were given and published as required by law. Petitioner is a "public utility" within the meaning of that term in Ind. Code § 8-1-2-1(a)(2) and is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Indiana. Accordingly, this Commission has jurisdiction over Petitioner and the subject matter of this proceeding.



**2. Petitioner's Organization and Business.** Indiana American is a public utility with its principal place of business located at 153 North Emerson Ave., Greenwood, Indiana. Indiana American provides water utility service to approximately 306,000 customers located in and around numerous communities throughout the State of Indiana. Indiana American also provides sewer utility service to approximately 1,730 customers located in Hamilton, Wabash and Delaware Counties. In total, Indiana American has 34 major service areas.

Indiana American renders such water and sewer utility service by means of utility plant, property, equipment and related facilities owned, leased, operated, managed and controlled by it which are used and useful for the convenience of the public in the production, treatment, transmission, distribution and sale of water for residential, commercial, industrial, public authority, and sale for resale purposes, for the provision of public and private fire service, and for the provision of sewer service. Indiana American's property is classified in accordance with the Uniform System of Accounts as prescribed by the National Association of Regulatory Utility Commissioners ("NARUC") and approved and adopted by the Commission.

**3. Existing Rates.** Petitioner's existing basic rates and charges for water and wastewater utility service were established pursuant to the Commission's order in *Indiana-American Water Co.*, Cause No. 44450 (IURC 1/28/2015) (the "2015 Rate Order") and modified by the Commission's Phase 1 order in *Indiana American Water Co.*, Cause No. 45032 S4 (IURC 7/31/2018). Since the conclusion of the 2015 Rate Order, a Distribution System Improvement Charge ("DSIC") was authorized in Cause Nos. 42351 DSIC 9, issued May 4, 2016, 42351 DSIC 10, issued March 22, 2017 and 42351 DSIC 11, issued March 14, 2018.

**4. Test Year.** As authorized by Ind. Code § 8-1-2-42.7(d)(1) ("Section 42.7"), Petitioner proposed a forward-looking test period using projected data. As provided in the Prehearing Conference Order, the test year to be used for determining Petitioner's projected operating revenues, expenses and operating income shall be the 12-month period ending April 30, 2020. The historical base period is the 12-month period ending December 31, 2017.

**5. Indiana American's Requested Relief.** In its Petition, Indiana American sought Commission approval of an overall increase in rates and charges for water service that would produce additional water revenues in two steps of approximately \$38.9 million, which would reflect an overall revenue increase of 17.50%. This overall revenue increase is comprised of a Step 1 increase of 8.22% and a Step 2 increase of 8.57%. No increase to rates and charges for wastewater service was proposed. As detailed in Indiana American's case-in-chief, Petitioner also requested Commission approval of a new schedule of rates and charges applicable to water and wastewater utility service, as well as authority to implement a low income pilot program ("LIPP").

**6. Opposition and Rebuttal.** The OUCC and intervenors raised a number of challenges to Indiana American's filing, including challenging rate base, rate of return, operating and maintenance ("O&M") expenses, cost of service allocation, rate design. The OUCC and intervenors also raised issues regarding Indiana American's proposal for the treatment of certain issues arising from the Tax Cuts and Jobs Act ("TCJA") including amortization of excess accumulated deferred income taxes ("EADIT") and deferral of the regulatory liability created as a result of the Commission's January 3, 2018 Order in Cause No. 45032. The extent to which

these parties disagreed with each other is shown in their cross-answering testimony. The extent to which Indiana American disagreed or agreed with the OUCC and intervenors was addressed in Indiana American's rebuttal evidence.

**7. Settlement Agreement.** The Settlement Agreement filed with the Commission on March 18, 2019 (Settling Parties' Joint Exhibit 1), presents the parties' resolution of all issues in this Cause. The Settlement Agreement is attached to this Order and incorporated by reference. The witnesses offering settlement testimony discussed the arm's-length nature of the negotiations and the efforts undertaken to reach a balanced settlement that fairly resolves the issues. The Settlement Agreement and supporting evidence is outlined below.

OUCC witness Margaret Stull testified the Settlement was the product of intense, arms-length negotiations, requiring each party to compromise on difficult issues. Pub. Ex. 10 at p. 2, lines 21-22. She testified that in order to reach such compromises, each party must assess litigation risk that the tribunal will find the other side's cause more compelling. *Id.* at lines 22-24. Ms. Stull further testified the Settlement strikes an appropriate balance between the interest of the ratepayer and of Indiana American. *Id.* at p. 2, line 24 through p. 3, line 1. She described the numerous benefits the Settlement Agreement provides to the ratepayer, which led the OUCC, as the statutory representative of all ratepayers, to conclude the Settlement is an equitable resolution, supported by the evidence, and should be approved. *Id.* at p. 3, lines 1-5. Among the ratepayer benefits, Ms. Stull testified that the agreed increase to Indiana American's annual revenue of up to \$17,500,000 is lower than Indiana American's initial request. Ms. Stull also described the parties' agreement on Indiana American's proposed LIPP, which the parties' agreed will be offered in three locations and will be funded, in part, by Indiana American contributed funds. *Id.* at p. 4, lines 6-16 and p. 19, lines 10-12.

Ms. Stull identified other ratepayer benefits in her testimony including: (1) an overall reduction of \$4,618,675 in total O&M expense from Indiana American's rebuttal position (*Id.* at p. 5, lines 12-14); (2) a reduction in Indiana American's proposed cost of common equity of 10.8% by 100 basis points to the agreed upon cost of equity for purposes of Settlement of 9.80% (*Id.* at p. 9, lines 10-14); and (3) an agreement by Indiana American to flow back the \$5,821,888 balance of the regulatory liability created as a result of the Commission's January 3, 2018 Order in Cause No. 45032 to customers over a twelve-month period commencing with the implementation of Step 2 rates (*Id.* at p. 15, lines 13-14).

Indiana American witness Mr. Gregory Shimansky also testified in support of the Settlement Agreement. Mr. Shimansky testified that the Settlement is the result of arm's-length negotiations by a diverse group of stakeholders with differing views on the issues raised both in this Cause and Cause No. 45032 S4 ("Tax Subdocket"). Pet. Ex. 5-S at p. 5, lines 10-12. He further testified that the Settling Parties devoted many days to discussions, collaborative exchange of information and settlement negotiations. *Id.* at p. 5, lines 13-15. Mr. Shimansky testified that the Settlement Agreement is in the public interest and represents a reasonable resolution of the issues both in this Cause and the Tax Subdocket. *Id.* at p. 5, lines 1-7.

Crown Point witness Gregory Guerrettaz also testified in support of the Settlement Agreement. Mr. Guerrettaz testified that the compromise the Settling Parties reached with respect to cost of service and rate design resulted in an approximate 8% increase for Sale for

Resale customers as compared to the approximately 24.5% to 33.9% originally proposed by Indiana American. Crown Point Ex. 4 at p. 3, lines 8-14. Mr. Guerrettaz testified that Crown Point retains strong interest in alternative wholesale water rate designs including time of use, interruptible rates and transmission rates and that Crown Point will continue to pursue such alternative rates. He reiterated Crown Point's stated concerns regarding the allocation of capital costs to Crown Point from Indiana American's approximate 30 other major service areas and that relatively few of those other service areas have sale for resale customers in them. He testified to address these concerns Indiana American and Crown Point have agreed to meet, exchange needed information, and attempt to reach agreement on rate design issues and proposals Crown Point included in its prefiled testimony. *Id.* at p. 5, lines 15-19. Mr. Guerrettaz sponsored a March 18, 2019 letter from Indiana American's President Deborah Dewey to Crown Point committing Indiana American to meet with Crown Point, exchange information, explore reaching agreement on alternative rate structures, and if agreement is reached jointly filing for approval of such an agreement. The letter acknowledges that Crown Point's participation in this Settlement in this Cause will not limit Crown Point's rights to pursue alternative wholesale rates in future Commission proceedings. Mr. Guerrettaz further testified that he supported approval of the Settlement Agreement in its entirety. *Id.* at p. 5, lines 10-12.

OUCC witness Mr. Jerome Mierzwa also offered testimony in support of the Settlement Agreement, specifically with respect to the cost allocation and rate design aspects of the Agreement. Mr. Mierzwa testified the Settlement Agreement resolves all of the issues related to cost allocation and rate design raised by the parties in this Cause. Pub. Ex. 11 at p. 2, lines 21-25. He further testified the Settlement Agreement is the result of arm's-length bargaining between the parties, and the Settling Parties' agreement with respect to cost of service falls within the range of potential outcomes proposed by the Settling Parties. *Id.* at p. 3, lines 5-17. Mr. Mierzwa ultimately testified that Commission approval of the Settlement Agreement is in the public interest. *Id.* at p. 7, lines 1-12.

While these witnesses testified to the reasonableness of the settlement as a whole, their respective settlement testimony also offered additional perspective on the terms of the Settlement as discussed below.

**A. Operating Revenues.** As discussed by Mr. Shimansky and Ms. Stull, Paragraph 2(a) of the Settlement Agreement sets forth the parties' agreement with respect to operating revenues. Mr. Stull testified the Settling Parties agreed to *pro forma* revenues at present rates for the test year of \$222,749,127. Pub. Ex. 10 at p. 4, lines 17-20. Mr. Shimansky testified the agreed-upon figure represents a reasonable compromise of the issue, as Indiana American proposed a \$2,854,679 reduction to Step 1 present rate revenues to recognize the effects of its estimated residential declining consumption, while the OUCC proposed a lower reduction of \$1,334,900. Pet. Ex. 5-S at p. 11, lines 19-23 through p. 12, lines 1-6. Mr. Shimansky explained that the difference between the adjustments proposed by Indiana American and the OUCC resulted from a disagreement between the parties regarding the rate at which residential usage has declined in recent years. *Id.* at p. 11, line 23 through p. 12, lines 1-6. Mr. Shimansky further testified that the Industrial Group also recommended a lower declining use adjustment, which decreased the Company's claimed revenue deficiency by approximately \$1.2 million, and Crown Point recommended the adjustment be disallowed in its entirety. *Id.* at p. 12, lines 6-12.

Mr. Shimansky testified the \$222,749,127 figure includes using the OUCC's recommended declining use adjustment. *Id.* at p. 12, lines 14-18. It also corrects for excess DSIC revenues mistakenly included in Indiana American's projection that were originally identified by OUCC witness Stull and which Indiana American agreed to on rebuttal. *Id.* Ms. Stull testified the agreed-upon amount is not based on any particular calculation methodology or percentage of declining usage. Pub. Ex. 10, p. 5 at line 1. She further testified that for purposes of Settlement, the Settling Parties agreed to test year operating revenues consisting of water revenues of \$217,361,195, sewer revenues of \$1,370,090, water late fee revenues of \$1,294,659, and other water revenues of \$2,723,183. *Id.* at lines 4-7.

**B. Cost of Capital.** Mr. Shimansky and Ms. Stull also testified regarding the Settling Parties' agreement with respect to capital structure and cost of equity as set forth in Paragraph 2(b) of the Settlement Agreement. Mr. Shimansky testified that Indiana American proposed a projected capital structure of 56.36% common equity and 43.64% long-term debt, as well as a return on equity ("ROE") of 10.80% to account for the business and financial risk factors facing Indiana American. Pet. Ex. 5-S at p. 14, lines 4-9. Mr. Shimansky further testified the Industrial Group recommended a 50/50 capital structure and a 9.35% ROE, while the OUCC recommended an ROE of 8.6%. *Id.* at lines 9-11. He testified that other intervenors also recommended lower ROE percentages, with Crown Point recommending an ROE of 9.00% and Schererville/Whiteland recommending an ROE of no greater than 9.75%. *Id.* at lines 9-18.

Ms. Stull testified that the Settling Parties ultimately agreed the Commission should authorize a 9.80% cost of common equity based on a capital structure that consists of 46.59% debt and 53.41% common equity. Pub. Ex. 10 at p. 9, lines 1-4. She further testified the agreed capital structure and cost of equity produce a weighted cost of capital of 6.17% in Step 1 and 6.25% in Step 2.

Both Mr. Shimansky and Ms. Stull testified the agreed-upon capital structure and cost of equity figures are reasonable and within the range of evidence presented in this Cause. Pet. Ex. 5-S at p. 14, lines 20-21; Pub. Ex. 10 at p. 9, lines 5-7. Mr. Shimansky testified that the parties arrived at the stipulated ROE based on a multitude of factors, including the Company's belief that it will still face the cash flow risks associated with the repairs deduction posed by the TCJA. Pet. Ex. 5-S at p. 14, lines 21-23 and p. 15, lines 1-2. He testified that a 9.8% ROE with a 53.41% equity level represents a level of risk and compensation for that risk that is within the range of evidence presented in this case. *Id.* at p. 15, lines 4-5. Mr. Shimansky also testified the agreed-upon projected capital structure is reasonable and in line with Indiana American's actual capital structure, which was 53.58% equity as of December 31, 2018 and is within the range discussed in Indiana American's most recent financing case (Cause No. 44682). Given that with a forward-looking test period the utility is to use projected data, Mr. Shimansky testified that Indiana American will work throughout the year to stay at the projected level in the Settlement Agreement. Pet. Ex. 5-S at p. 13, lines 17-22. Ms. Stull noted that the agreed upon ROE is 100 basis points lower than Petitioner's original proposal and brings Petitioner closer to the debt/equity ratio used in prior cases and closer to a 50/50 split. Pub. Ex. 10, at p. 9, lines 10-13. She testified that the agreed-upon capital structure serves to reduce Petitioner's overall revenue increase and produces a more reasonable result in this Cause. *Id.* at lines 13-14.

**C. Rate Base.** Ms. Stull and Mr. Shimansky also testified regarding the Settling Parties' agreement with respect to the rate base cap and rate base certification process as set forth in Paragraphs 2(c) and 2(d) of the Settlement Agreement. Mr. Shimansky testified that the parties have agreed that Step 2 rates will be based upon actual net original cost rate base that does not exceed \$1,182,170,152 ("Rate Base Cap"), representing a \$40 million reduction from Indiana American's proposed Step 2 rate base in this Cause. Pet. Ex. 5-S at p. 15, lines 10-13. He further testified the Company has agreed that the \$40 million reduction to the forecast is composed of non-DSIC eligible assets. *Id.* Mr. Shimansky testified that Indiana American anticipates \$4,826,590 of the \$40 million to come out of Step 1 Rates. *Id.* at p. 18, lines 19-20. The Settlement Agreement does, however, make clear that the Rate Base Cap does not foreclose inclusion of amounts in excess of the Rate Base Cap in rate base in future years. *Id.* at p. 15, lines 14-16.

Mr. Shimansky testified that the stipulated Rate Base Cap set forth in Paragraph 2(c) of the Settlement is a reasonable compromise by the Settling Parties of the issue. *Id.* at p. 17, lines 17-19. Mr. Shimansky explained that in its case-in-chief, Indiana American sought to include \$541.7 million of total UPIS additions in rate base, excluding acquisitions and developer additions. *Id.* at p. 15, lines 18-19. He testified that OUCC witness Parks recommended disallowance of approximately \$247 million of Indiana American's capital projects; Mr. Parks' recommendation to disallow \$247 million of Indiana American's capital program was due largely to a disagreement between the OUCC and Indiana American over process, specifically what level of information Indiana American should have provided to the parties, and at what stage in the case, to support a determination that its projects were prudent and reasonable. *Id.* at 16, lines 10-16. Mr. Shimansky testified that Paragraph 6 of the Settlement will minimize these issues in future rate proceedings, as it outlines specific information Indiana American is to provide in its next general rate case and thereafter to support capital projects. *Id.* at p. 17, lines 19-22. He testified that Paragraph 6 also sets forth a process for Indiana American to provide its Comprehensive Planning Studies. *Id.*

Ms. Stull agreed with Mr. Shimansky and testified that the public interest is served by the Settlement terms related to capital project detail to be provided in Indiana American's future rate cases. Pub. Ex. 10 at p. 13, lines 21-24 through p. 14, lines 1-8. She testified that the Settlement Agreement adds clarity to the level of support Indiana American will provide for its capital projects in future cases, and the public interest is served when the consumer parties receive meaningful support for capital expenditures as early in the review process as possible. *Id.*

Mr. Shimansky further testified that Indiana American's agreement to reduce its rate base forecast by \$40 million composed of non-DSIC eligible assets also represents a compromise by the parties on the issue. Pet. Ex. 5-S at p. 18, lines 10-24. He testified that in order to reach the \$40 million reduction to rate base compromise, Indiana American, the OUCC and the Industrial Group moved considerably off of their case-in-chief positions. *Id.* Ms. Stull also testified the Rate Base Cap garners significant benefits for customers. Pub. Ex. 10 at p. 12, lines 4-16. She testified that the Rate Base Cap provides certainty to customers by way of setting a limit on Indiana American's utility plant upon which it can earn a return. *Id.* Ms. Stull further testified that customers also benefit from the agreement the \$40 million reduction in assets are not DSIC-eligible, as the assets cannot be removed from Indiana American's rate base and then charged to customers through a future DSIC proceeding. *Id.*

**D. Rate Base Certification and Update Mechanism.** Mr. Shimansky also testified regarding the rate base certification process agreed to by the parties as set forth in Paragraph 2(d) of the Settlement Agreement. Mr. Shimansky described the process and testified that it is virtually the same process approved for Northern Indiana Public Service Company in Cause No. 44498. Pet. Ex. 5-S at p. 19, lines 6-7. As described in Paragraph 2(d) of the Settlement, the parties agreed that Indiana American shall certify it has completed the amount of net plant indicated in its certification and the corresponding net plant additions have been placed in service and are used and useful in providing utility service as of the date of certification. *Id.* at p. 19, lines 6-23. Mr. Shimansky testified that with respect to Step 1 rates, Indiana American will certify its net utility plant in service as of April 30, 2019 and calculating the resulting Step 1 rates using the agreed capital structure set forth in Table 3 of the Settlement Agreement. *Id.* Step 1 rates will become effective upon the latter of the date of the Commission's Order in this Cause or July 1, 2019. *Id.* With respect to Step 2 rates, the Company will certify its net UPIS as of the end of the test year (April 30, 2020), calculate rates based off of the agreed capital structure and the rates will go into effect upon the later of the date the Company certifies its end of test year net plant in service or May 1, 2020. *Id.* at p. 19 lines 16-23 through p. 20, lines 1-3. Mr. Shimansky reiterated that Step 2 rates will be based upon actual net original cost rate base that does not exceed \$1,182,170,152, and will include Net Original Cost Rate Base at or below that level as of April 30, 2020, with the understanding that the total stipulated increase will not exceed \$17,500,000 over pro forma revenues at present rates. *Id.* at p. 19, lines 18-23.

Mr. Shimansky testified that in addition to the test year certification process, the parties also agreed to a process for the OUCC and intervening parties to challenge Indiana American's end of test year certification. *Id.* at p. 20, lines 4-14. Mr. Shimansky explained that through this process, the OUCC and intervening parties will have 60 days from the date of the Step 2 certification to state any objections to the Company's certified test-year-end plant in service and, if objections cannot be resolved informally, a hearing will be held to determine the Company's actual test-year-end net plant in service, and rates will be trued-up (with carrying charges) retroactive to the date that the Company's Step 2 rates became effective. *Id.* Mr. Shimansky testified that the certification process is not an opportunity to challenge the prudence of Indiana American's forecast. *Id.*

Ms. Stull testified that the public interest is served by the rate base terms outlined in the Settlement. Pub. Ex. 10 at p. 12, lines 17-23. She testified that the Step 1 and Step 2 rate base certification process provides for a transparent review of Indiana American's rate base, including plant in service and related calculations. Ms. Stull further testified the process serves as an incentive for timely, thorough review of the assets Indiana American has certified are in service and used and useful. *Id.* at p. 12, line 23 through p. 13, lines 1-2.

**E. Operating Expenses, Depreciation and Amortization.** Mr. Shimansky also testified regarding the Settling Parties' agreement with respect to operating expenses, depreciation and amortization as set forth in Paragraph 2(e) of the Settlement. Mr. Shimansky testified that in determining the agreed forecasted level of operating expenses of \$165,980,395, the parties stipulated to certain levels of forecasted purchased water, fuel and power, salaries and wages, group insurance, other benefits, support services, contract services, and regulatory expense. Pet. Ex. 5-S at p. 21, lines 1-11. Mr. Shimansky further testified that the parties also stipulated the forecasted level of depreciation expense at Step 2 of \$52,528,975, forecasted

amortization expense of \$274,699, and forecasted Taxes Other Than Income Tax expense at Step 2 of \$17,526,349. *Id.* Mr. Shimansky then discussed each of the operating expense adjustments and explained how the Settling Parties' reached the stipulated amount for each expense. *Id.* at pp. 21-31. For each expense, Mr. Shimansky testified that the agreed amount (described in greater detail below) represented a reasonable compromise of the issue by the parties. *Id.* Ms. Stull also testified that the negotiated adjustments to operating expenses, depreciation and amortization represent agreements reached by the Settling Parties as part of the overall package of settlement terms. Pub. Ex. 10 at p. 5, lines 14-15.

Mr. Shimansky stated in settlement testimony that for purposes of settlement, Indiana American has agreed to reduce its projected purchased water expense of \$498,786 by \$32,078, for total forecasted purchased water expense for the test year of \$466,708. He testified that Indiana American's case-in-chief proposal of a \$120,295 increase to purchase water expense was based on the City of Boonville's then-pending rate increase and an inflationary adjustment for Ramsey Water Company. Indiana American's proposed adjustment resulted in total forecasted purchased water expense for the test year of \$498,786. The OUCC disagreed with Indiana American's adjustment because the Company used Boonville's proposed Phase I and Phase II rates, not the OUCC's, to project the increase associated with the Boonville rate case, and because the OUCC viewed the inflationary adjustment associated with Ramsey as inappropriate when the company had no pending rate increase. The OUCC ultimately recommended total pro forma purchase water expense of \$466,708. Since the filing of Indiana American's and the OUCC's cases-in-chief in this case, the parties in Boonville's pending case submitted a settlement that stipulated to a Phase I rate increase that is approximately 2/3 of Boonville's initial request. Pet. Ex. 5-S at p. 22, lines 6-8. Ms. Stull testified that purchased water expense was reduced to reflect the settlement in Cause No. 45069 (Boonville Municipal Water). Pub. Ex. 10 at p. 7, lines 3-4.

With respect to fuel and power expense, Mr. Shimansky explained that Indiana American had proposed an adjustment of \$84,212, which was opposed by the OUCC, and that the Commission had asked questions via Docket Entry regarding the effects of the Tax Cuts and Jobs Act on energy expenses. For purposes of settlement, Mr. Shimansky stated the Settling Parties have agreed to a reduction of our adjustment by \$50,000, which is more than half of the original proposal. Pet. Ex. 5-S at p. 22, lines 17-19.

For labor expense, Mr. Shimansky testified that the stipulated forecasted level of salaries and wages (including Group Insurance and Other Benefits) for the test year is \$18,614,068, reflecting a reduction of salaries and wages expense by \$514,123, along with a reduction to Group Insurance of \$97,708 and Other Benefits of \$35,227 for a total reduction of \$647,058 from Indiana American's forecasted level presented in its case in chief based on a headcount of 364 full time employees, which is the number currently employed. Pet. Ex. 5-S at p. 23, lines 3-7. Ms. Stull noted the salaries and wages expense was reduced to reflect a reduction of ten (10) positions Indiana American had projected in its case-in-chief but not yet filled. Pub. Ex. 10 at p. 7, lines 4-6. This adjustment carries through other labor-related expenses as shown on the Summary of Adjustments tab of Attachment GDS-1S to Mr. Shimansky's settlement testimony.

Mr. Shimansky described the stipulation with respect to the level of pension and OPEB expense. He stated the stipulated forecasted level of pension expense for the test year is



\$2,047,560 and explained that the higher expense is primarily due to an update for the latest re-measurement performed by the actuary and inclusion of all cost components (not just Service Costs) consistent with the methodology for calculating pension expense in Indiana American's prior cases. Mr. Shimansky testified the stipulated level of OPEB expense for the test year is negative \$1,990,876, again due to the actuary's latest re-measurement performed and inclusion of all cost components (not just Service Costs). Pet. Ex. 5-S at p. 24, lines 9-15. The support for the stipulated pension and OPEB expense forecasts was presented in the New Pension and OPEB tab in Attachment GDS-1S. Mr. Shimansky testified that four months of the total net decrease from returning to the previous methodology for calculating the expense will be reflected in Step 1 rates, with the remaining eight months of the total net decrease reflected in Step 2. This results in a net decrease to Pension/OPEB expense in Step 1 of (\$497,140) (pension increase of \$313,189 and OPEB decrease of \$810,329) and a further net decrease to Pension/OPEB expense in Step 2 of (\$994,281) (pension increase of \$626,378 and OPEB decrease of \$1,620,659). He stated that splitting this decrease between the two steps further mitigates the Step 2 rate increase because a larger part of the net reduction for this issue will take place in Step 2. Pet. Ex. 5-S at p. 25, lines 13-23.

With respect to support services expense, Mr. Shimansky testified that for purposes of settlement, Indiana American has agreed to reduce the forecasted level presented in its case-in-chief by \$353,887 to remove expenses categorized as Business Development and the Settling Parties have agreed to keep the \$254,517 in rate case expense that Ms. Stull had testified on direct should be reclassified as service company expense. The Settling Parties did agree to a \$50,000 reduction to annual rate case expense amortization, which is driven by reduced projected levels of expense that the Company hopes to capture through settling rather than fully litigating this case. Pet. Ex. 5-S at p. 27, lines 10-16; Pub. Ex. 10 at p. 7, lines 7-10.

Mr. Shimansky stated the stipulated forecasted level of contract services expense for the test year of \$1,916,965 reflects a reduction of \$507,500 from Indiana American's forecasted level presented in its case-in-chief to reflect a reduced forecasted expense associated with contractor line locates. He testified the actual number of line locate requests in 2018 was 197,419, which did not meet the 8% increase level predicted by Indiana 811, which Mr. Brock explained in his direct and rebuttal testimony formed the basis for the Company's case-in-chief projected expense level. The Company agreed in the settlement that a reduction in the forecasted level of expense for contractor line locates was appropriate. Pet. Ex. 5-S at p. 28, lines 13-20.

With respect to the agreed upon amortization expense of \$274,69, Ms. Stull testified that the agreed upon amount includes amortization of the comprehensive planning studies over a 15 year period and amortization of BT SOP costs. Pub. Ex. 10 at p. 7, lines 16-18. Mr. Shimansky testified this amount reflects the Settling Parties' agreement to remove from amortization \$216,000 related to Comprehensive Planning Study costs and \$122,000 related to BT SOP 98-01 for a total downward adjustment of \$338,000. Pet. Ex. 5-S at p. 28, lines 22-24. He testified that for settlement purposes the parties agreed to reflect the net effect (a \$216,000 reduction to amortization expense) of the OUCC's proposal with respect to recovery of CPS costs (amortization over 15 years), provided that going forward the Company would be permitted to defer all costs of conducting CPSs in a regulatory asset to be amortized over a 15-year period. *Id.* at p. 29, lines 18-21. With respect to the BT SOP 98-01 costs, Mr. Shimansky testified that

for purposes of settlement, the Company agreed to reduce the amortization expense by the \$122,213 recommended by the OUCC. *Id.* at p. 29, line 23 through p. 30, line 23.

Mr. Shimansky further described stipulations reflected in the Settlement Agreement as to the expense categories related to the stipulated forecasted revenue levels described above and the impact of the stipulated deferred Federal income tax expense which I will discuss a little bit later in this testimony. Each of those additional adjustments is reflected in the Summary of Adjustments tab of Attachment GDS-1S. Mr. Shimansky testified regarding an additional category of adjustment reflected in the support for Paragraph 2(e) of the Settlement Agreement, consisting of an additional forecasting adjustment that has been made solely for purposes of achieving the overall agreed level of increase reached during settlement negotiations to achieve the overall rate impact to which the Settling Parties agreed. This adjustment in total amount of \$1,574,391 (with \$214,250 being reflected in Step 1) is reflected in Miscellaneous Expense on the Summary of Adjustments tab in Attachment GDS-1S. Mr. Shimansky explained this is an overall adjustment to the total O&M forecast. Pet. Ex. 5-S at p. 31, lines 2-11.

**F. TCJA and Pending Issues in Cause No. 45032 S4.** Mr. Shimansky and Ms. Stull also testified regarding the Settling Parties' agreement with respect to the only remaining issues pending in Cause No. 45032 S4 (the "Tax Subdocket") as set forth in Paragraph 3(a) of the Settlement Agreement. Mr. Shimansky testified that while the rest of the Settlement Agreement is conditioned upon approval in the Rate Case, Paragraph 3 is conditioned on approval in the Tax Subdocket. Pet. Ex. 5-S at p. 31, lines 13-24. Mr. Shimansky testified regarding the pending issues in the Tax Subdocket, including: (1) the refund of the regulatory liability created by the Commission's January 3, 2018 Order in Cause No. 45032; (2) amortization of protected excess accumulated deferred income taxes ("EADIT"); and (3) amortization of unprotected EADIT.

The Settling Parties presented the Settlement as it relates to the issues in the Tax Subdocket, as well as testimony in support thereof, in Cause No. 45032 S4 and that evidence was admitted to the record in that proceeding at a settlement hearing held on March 28, 2019. The Settling Parties submitted their agreed form of proposed order in the Tax Subdocket on April 4, 2019.<sup>1</sup> Mr. Shimansky testified regarding the interplay between this Cause and the Tax Subdocket, as well as the limited approval the parties are seeking of TCJA-related issues in this Cause. He testified that the parties are only seeking approval of one TCJA-related issue in this Cause, with the other issues to be decided in the Tax Subdocket. *Id.* at p. 36, lines 18-24 through p. 37, lines 1-4. He testified for purposes of this Cause, the parties are only seeking approval of

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<sup>1</sup> In his settlement testimony, Mr. Shimansky discussed the parties' agreement on each of the issues to be approved in the Tax Subdocket. With respect to the refund of the \$5.8 million regulatory liability, Mr. Shimansky testified that for purposes of settlement the parties have agreed to flow back the deferred dollars as a bill credit ratably over a twelve-month period commencing with the implementation of Step 2 rates. Pet. Ex. 5-S at p. 35, lines 8-18. Mr. Shimansky testified that the agreed upon twelve-month time period reflects a compromise between the OUCC's proposal to refund the money immediately, and the Industrial Group's proposal to flow it back over a two-year period. *Id.* Mr. Shimansky testified that by starting the bill credit commensurate with Step 2 rates, the Step 2 rate increase is mitigated, which was the desire of the parties. *Id.* We note that based on the evidence of record, the amount of the deferred regulatory liability is greater than the amount of the Step 1 revenue increase. As a result, beginning the refund in Step 1 would result in a reduction in customer bills for Step 1 (after the bill credit), which would ultimately lead to a more significant increase in customer bills in Step 2.

the parties' agreement that, for purposes of Step 1 rates, the Company will use the estimate provided in the Company's rebuttal in this Cause to reflect the reduction for deferred Federal income tax expense. *Id.* The parties are also seeking approval in this Cause of their agreement that for purposes of Step 2 rates, if the IRS issues a Private Letter Ruling that amortization of repairs related EADIT cannot be faster than under ARAM, the estimate producing annual amortization of \$1.7 million will continue to be used for purposes of Step 2 rates until the Company's next general rate case, at which point the EADIT amortization will be trued up using the actual ARAM calculation. *Id.*

**G. Low Income Pilot Program.** Mr. Shimansky and Ms. Stull further testified regarding the Settling Parties' agreement with respect to Indiana American's request to implement a low income pilot program ("LIPP") in this Cause. Mr. Shimansky testified that in its case-in-chief, Indiana American proposed to offer the LIPP in two cities, Terre Haute and Muncie, Indiana for purposes of allowing the Company to gather data on participation and impact on bad debt expense before considering expansion or revision of the program. Pet. Ex. 5-S at p. 37, lines 5-23. He further testified that Indiana American proposed to defer the cost to the Company associated with the program to a regulatory asset for recovery in its next general rate case. *Id.* Mr. Shimansky testified that for purposes of settlement, Indiana American has agreed to add Gary, Indiana as a third location for inclusion in the LIPP. *Id.* at p. 38, lines 8-24. Mr. Shimansky also discussed the Settling Parties' agreement as to how the costs associated with the program will be recovered. He testified that the Settling Parties agreed that the total program cost for the LIPP will be borne evenly (50/50) between the deferred asset and non-deferred contribution as established in the Settlement Agreement. *Id.* For every year of the LIPP except for Year One and Two, the Settling Parties further agreed that, subject to the recovery provisions explained in the Settlement, Indiana American will contribute up to \$300,000 per year to the LIPP, allocated equally among the three pilot locations (i.e. up to \$100,000 per location), with the actual amount contributed depending on participation with the requirement that the total contribution will not exceed \$300,000 annually (or \$100,000 for each individual community), except for Year Two when the total contribution will not exceed \$450,000, and will continue until the earlier of the next general rate case filing, or termination of the LIPP. *Id.* The Settling Parties further agreed that of the maximum annual contribution amount an amount not to exceed \$150,000 per year will be accrued in a deferred asset, without carrying charges, for recovery in the Company's next general rate case. *Id.*

Mr. Shimansky further testified that the Company's contribution obligation will commence with the commencement of the LIPP; however only the \$150,000 to be deferred in a regulatory asset actually will be contributed in the first year of the LIPP, with the remaining non-deferred portion of the first year's contribution to be made at the time of the second year's contribution. *Id.* at p. 39, lines 2-9. Accordingly, for the second year only of the LIPP, the maximum contribution to be made by the Company could be as high as \$450,000, with \$300,000 from the Company's non-deferred contribution and \$150,000 in the deferred asset. *Id.* Mr. Shimansky further testified that all subsequent annual contributions will not exceed \$300,000. *Id.*

Mr. Shimansky testified that the agreement reached by the Settling Parties with respect to the LIPP is a reasonable compromise of the issue that will allow the pilot program to be conducted to see if a broader low-income assistance program could meet the legislative policies

established by recent action of the General Assembly and to analyze its impact on Indiana American's operations. *Id.* at p. 39, lines 11-17. Ms. Stull further testified the Settlement terms on the LIPP are in the public interest. Pub. Ex. 10 at p. 20, lines 1-12. She testified that Indiana American originally proposed that the LIPP be funded entirely through customer rates, while the OUCC advocated for shareholder funding of the program. *Id.* She ultimately testified that the Settlement strikes an even balance between these two positions, providing for both ratepayer and shareholder funding for the LIPP. *Id.*

**H. Conservation.** Mr. Shimansky also testified regarding the Settling Parties' agreement with respect to conservation as set forth in Paragraph 5 of the Settlement Agreement. Mr. Shimansky testified that in CAC/INCAA's case-in-chief, CAC/INCAA testified it would like Indiana American to evaluate and further consider offering water demand side management or efficiency programs for its customers. Pet. Ex. 5-S at p. 39, lines 18-24 through p. 40, lines 1-7. He further testified that as set forth in Paragraph 5 of the Settlement, Indiana American has agreed to conduct a good faith review of market potential and customer impact of a utility-sponsored water conservation program in its service territory. *Id.* Mr. Shimansky testified Indiana American further agreed that such a utility-sponsored water conservation program proposal could include non-behavioral, measure-based conservation efforts, such as device distribution programs, direct installation programs, manufacturer buy-down programs, and rebate and voucher programs for water conservation measures and services. *Id.*

Ms. Stull testified that the Settlement terms on conservation are in the public interest. Pub. Ex. 10 at p. 20, lines 1-12. She testified that the agreed Conservation Program serves the public interest as a means to examine any public benefit from Indiana American's good faith review of market potential and customer impact. *Id.*

**I. Effect of Stipulation in Future Proceedings.** Mr. Shimansky and Ms. Stull also testified regarding Paragraph 6 of the Settlement Agreement which sets forth the Settling Parties' agreement with respect to the effect of the stipulation in future proceedings. These terms include the parties' agreement regarding what information Indiana American will provide in its case-in-chief in its next general rate case to support capital projects, as well as the process for Indiana American to provide its Comprehensive Planning Studies and other relevant materials in the next case. Pet. Ex. 5-S at p. 40, lines 8-21. It also sets forth the parties' agreement with respect to the accounting treatment for expenses associated with the Comprehensive Planning Studies, as well as the journal entries for Indiana American's Yankeetown and Merom acquisitions. *Id.*

Mr. Shimansky testified regarding Paragraph 6(a) which sets forth the information Indiana American has agreed to provide in its case-in-chief in its next general rate case to support its capital program. He described that in its case-in-chief, Indiana American sought to include \$541.7 million of total UPIS additions in rate base, excluding acquisitions and developer additions. In the OUCC's case-in-chief, OUCC witness Mr. Parks recommended disallowance of approximately \$247 million of Indiana American's capital projects consisting primarily of his recommendation to disallow all of Indiana American's recurring projects from January 2018 through April 2020, totaling \$157,142,726, as well as his recommendation to disallow approximately \$35 million for the Richmond Major Project. Mr. Shimansky testified that the OUCC's testimonial position on rate base focused primarily on the level of detail in Indiana

American's case-in-chief and not on the prudence of the projects. In its rebuttal evidence, Indiana American asserted that it had provided the information required under the Commission's Minimum Standard Filing Requirements ("MSFRs") to support its capital program. Mr. Shimansky recited how Indiana American had further asserted, through rebuttal testimony of Mr. Hoffman, that it had provided more information than the Company did in its previous rate case, Cause No. 44450, and more information than other investor-owned utilities provided in recent forward-looking test year cases. Mr. Shimansky stated that nevertheless, Indiana American, in its rebuttal evidence, provided more detail addressed to the OUCC's concerns. Pet. Ex. 5-S at p. 9, lines 9-10. He testified that developing an agreed upon process to provide capital project information and the Comprehensive Planning Studies, as the parties have done here (as further described below), is intended to minimize issues in future rate proceedings, give Indiana American a clear indication of what information, beyond the MSFRs, it is to provide in its case-in-chief evidence, and facilitate the OUCC's thorough and expeditious review Indiana American's capital program within its 98-day timeframe to prepare responsive testimony.

Mr. Shimansky testified that with respect to projects greater than \$500,000, the information to be provided is set forth in Paragraph 6(a)(i) of the Settlement Agreement and for recurring capital investments that are individually less than \$500,000, the information is set forth in 6(a)(ii). *Id.* at p. 41, lines 6-24. He testified that for purposes of future general rate cases involving a forward-looking test period, Indiana American has agreed, to the extent the information set forth in Paragraph 6(a)(i) and (ii) exists, to include such information in its workpapers supporting its case-in-chief. *Id.* If the information does not exist, Indiana American has agreed to explain in testimony or exhibits how it determined the forecasted capital additions. *Id.* The Settling Parties further agreed that if any party believes Indiana American failed to provide the required information, the party must file a deficiency notice within the timeframe set forth in 170 IAC 1-5-4; otherwise, Indiana American will be deemed to have filed a complete case-in-chief for purposes of a motion to dismiss based on a failure to meet the Minimum Standard Filing Requirements ("MSFRs"). *Id.* The Settling Parties further agreed that if the Commission promulgates rules amending or adapting the MSFRs for a rate case utilizing a forward-looking test period, then the parties agree that those rules shall supersede the parties' agreement set forth in Paragraph 6(a). *Id.*

Mr. Shimansky also testified regarding Paragraph 6(a)(iii) of the Settlement Agreement which sets forth the parties' agreement with respect to access to studies, including Indiana American's Comprehensive Planning Studies. Mr. Shimansky testified that subject to the terms of the Settlement Agreement, Indiana American has agreed to provide the OUCC with copies of the studies, reports or analyses – including Comprehensive Planning Studies, if applicable – for operations that are projected to include a "major project" as defined in the MSFRs contemporaneous with filing its case-in-chief. *Id.* at p. 42, lines 6-20. Mr. Shimansky further testified that the parties have agreed to work cooperatively to find reasonable solutions to afford timely access to the voluminous materials related to the case. *Id.*

Mr. Shimansky and Ms. Stull testified that the parties' agreement set forth in Paragraph 6(a) with respect to the information to be provided to support Indiana American's capital program resolves the parties' dispute regarding the support for Indiana American's forecasted capital projects for purposes of the current case, and mitigates the risk of similar disputes in future cases. *Id.* at p. 41, lines 1-5; Pet. Ex. 10 at p. 13, lines 5-10. Ms. Stull testified that the

public interest is served by the clarity these Settlement terms add to the level of support Indiana American is to provide, as well as allowing for the consumer parties to receive meaningful support for capital expenditures as early in the review process as possible. Pub. Ex. 10 at p. 13, lines 21-24 through p. 14, lines 1-8.

Mr. Shimansky also testified regarding the parties' agreement with respect to the deferral and amortization of Indiana American's Comprehensive Planning Studies, as well as the parties' agreement with respect to the acquisition journal entries for Yankeetown and Merom, as set forth in Paragraphs 6(b) and 6(c) of the Settlement, respectively. Pet. Ex. 5-S at p. 43, lines 1-18. Mr. Shimansky testified that for purposes of the Settlement, Indiana American has agreed that following the issuance of an Order approving the Settlement, all costs of conducting the Comprehensive Planning Studies shall be deferred and amortized over a 15-year period. *Id.* Mr. Shimansky further testified that as set forth in Paragraph 6(c), for purposes of Settlement and based on the evidence and filings in the Yankeetown and Merom cases, Indiana American has agreed to revise the journal entry to record the acquisitions for those systems to reflect the journal entry submitted in Petitioner's Exhibit JCH-6 (Cause No. 44400) and Petitioner's Exhibits JCH-5 (Cause No. 44399), respectively. *Id.*

Mr. Shimansky testified that Indiana American believes the agreement set forth in Paragraph 6(b) for the deferral and amortization of the Comprehensive Planning Studies is a reasonable compromise of the issue and will allow a complete recovery of the costs of conducting the studies. Pet. Ex. 5-S at p. 43, lines 3-6. With respect to Indiana American's agreement to revise the journal entries for the Yankeetown and Merom cases as set forth in Paragraph 6(c), Ms. Stull testified that the public interest is served by adherence to the Commission directives. Pub. Ex. 10 at p. 14, line 16.

**J. Timing of Indiana American's Next General Rate Case.** Mr. Shimansky testified regarding the parties' agreement with respect to the timing of Indiana American's filing of its next rate case as set forth in Paragraph 7 of the Settlement Agreement. Mr. Shimansky testified that as set forth in Paragraph 7 of the Settlement Agreement, it is anticipated that the Settlement will allow for Indiana American to operate without seeking a general increase in base water rates and charges before January, 2022. Pet. Ex. 5-S at p. 43, lines 19-24 through p. 44, lines 1-7. Mr. Shimansky further testified that while Paragraph 7 does not impose a rate case moratorium despite the consumer parties' expressing an interest in imposing one in settlement negotiations, it is an acknowledgment that it is important for the parties to understand the anticipated timing of a future general rate case. *Id.* He testified that the parties further agreed that, while not anticipated, certain circumstances, short of emergency relief under IC 8-1-2-113, could justify an earlier filing, and nothing in the Settlement impacts the Company's ability to file a rate case for sewer service or the timing thereof. *Id.*

**K. Revenue Allocation and Rate Design.** Mr. Shimansky also testified regarding Paragraph 8 of the Settlement Agreement which sets forth the parties' agreement with respect to rate design and revenue allocation. Mr. Shimansky testified that, for purposes of settlement, the Settling Parties agree the Commission should proceed to approve the rate design set forth in Appendix C of the Settlement, which resets the DSIC to zero and accomplishes the agreed allocation. Pet. Ex. 5-S at p. 44, lines 17-24. Mr. Shimansky testified the agreed revenue allocation largely flowed from the allocation presented in the Company's cost of service study,

and Indiana American consulted with the various intervenor groups to develop a rate design that best meets each group's needs. *Id.*

Mr. Shimansky discussed the individual rate designs for each customer class and explained how that design best met those customer needs. *Id.* at p. 45, line 7 through p. 47, line 9. For residential customers, he testified the agreed rate design represented a decrease from the total current fixed charges (meter charges and distribution system improvement charges "DSIC")) customers are currently paying. The remainder of the costs allocated to the residential customer class were allocated to the first block of the volumetric charge for general water service. *Id.* at p. 45, lines 9-15. He explained that during settlement discussions, the sale for resale ("SFR") customers sought to have the stipulated revenue allocation spread over the SFR class pro forma billing determinants to achieve an across-the-board increase to both current fixed and variable charges for the SFR class of 8.04%, which is reflected in the stipulated revenue allocation and rate design. *Id.* at p. 46, lines 7-15. The Industrial Group preferred for the Industrial class current fixed charge to remain unchanged so that the increase would flow through entirely the volumetric charge. Therefore, the stipulated customer charge is set at the level currently being recovered through fixed charges, even though the Company's case-in-chief proposed a reduction to the fixed charges over the two steps. Mr. Shimansky stated the Industrial Group expressed concern about the further increase to the volumetric rate if the fixed charge were lowered. *Id.* at p. 46, line 18 through p. 47, line 1. Mr. Shimansky further testified the Settling Parties agreed that each Settling Party retains all rights to advocate for alternative cost of service studies and rate designs different from those outlined in the Settlement Agreement in future rate cases. *Id.* at p. 44, line 24 through p. 45, lines 1-3.

Mr. Jerome Mierzwa also testified in support of the rate design and revenue allocation provisions set forth in Paragraph 8 of the Settlement. Mr. Mierzwa testified the Settlement Agreement resolves all of the issues related to cost allocation and rate design in this Cause. Pub. Ex. 11 at p. 2, lines 21-25. Mr. Mierzwa also discussed the parties' agreement with respect to the monthly fixed charge for residential customers. Mr. Mierzwa testified that the Settlement provides a compromise between Indiana American's proposal to increase the monthly fixed charge for customers served by 5/8-inch, 3/4-inch, and 1-inch meters, and the OUCC's recommendation that the current 5/8-inch meter monthly fixed customer charge be maintained, as the Settlement ultimately adopts smaller increases in the monthly fixed charge for customers served by the 5/8-inch, 3/4-inch, and 1-inch meters. Pub. Ex. 11 at p. 6, lines 5-18. Mr. Mierzwa testified that the terms of the Settlement represent a reasonable resolution of the issues raised regarding cost allocation and rate design, and recommended Commission approval of the Settlement terms. *Id.* at p. 7, lines 14-23.

**L. Stipulation Effect, Scope and Approval.** Mr. Shimansky testified regarding Paragraph 9 which addresses the effect and scope of the Settlement, the approval being sought for the Settlement Agreement and applicable conditions to the effect of the Settlement Agreement. Pet. Ex. 5-S at p. 47, lines 10-24. Mr. Shimansky testified that Paragraph 9 of the Settlement specifically makes clear that the Settlement Agreement is the result of negotiations and compromise reached during those negotiations, and that neither the making of the Settlement agreement nor any of its provisions shall constitute an admission or waiver by any Settling Party in any proceeding other than the Rate Case or the Tax Subdocket, now or in the future, nor shall it be cited as precedent. *Id.* Mr. Shimansky further testified that the parties agreed the



Settlement Agreement is a compromise and will be null and void unless approved in its entirety without modification or further condition that is unacceptable to any Settling Party. *Id.* He testified the Settlement Agreement also includes provisions concerning the substantial evidence in the record supporting the approval of the Settlement Agreement, recognizes the confidentiality of the settlement communications and reflects other terms typically found in settlement agreements before this Commission. *Id.*

**8. Commission Discussion and Findings.** Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406.

Furthermore, any Commission decision, ruling, or order, including the approval of a settlement, must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement, we must determine whether the evidence in this cause sufficiently supports the conclusions that the Settlement is reasonable, just, and consistent with the purpose of Ind. Code § 8-1-2-1 et seq., and that such agreement serves the public interest.

The Commission has before it substantial evidence from which to determine the reasonableness of the terms of the Settlement Agreement. Our review of the reasonableness of the Settlement is aided by the parties' express agreement on the rate base and implementation and update methodology to be used in determining Petitioner's rate increase, the agreed upon allocation of the increase and agreed upon rate design, as well as the Settling Parties' express agreement on the cost of common equity and each adjustment used to determine the adjusted financial results at present and settlement rates. All of the agreed-upon pro forma adjustments are supported by and explained in the Appendices to the Stipulation and Settlement Agreement and supporting settlement testimony. Therefore, we are able to examine the basis for all of the components of the increase in base rates and charges provided for in the Settlement and hereby find they are reasonable for purposes of settlement and supported by the evidence of record.

Further, the revenue increase would be significantly less than what Petitioner sought in its case. Approval of the Settlement eliminates the risks, uncertainty and consumption of time and resources that would otherwise be required for the Commission to issue its final order in this proceeding. The Settlement resolves various disputed issues about Petitioner's revenue forecasts, rate base updates and implementation of rates under Section 42.7, and the appropriate return on equity. The Settlement also addresses certain issues among the Settling Parties for purposes of future proceedings.

The Settlement provides for a reasonable increase, for a resolution of the parties' dispute regarding what information Indiana American should provide in its case-in-chief in future cases

to support its capital program, as well as a resolution of the complicated issues arising from the TCJA and currently pending in the Tax Subdocket.

Below, the Commission will review and address some of the specific components of the Settlement Agreement.

**A. Rate Base and Capital Projects Information to be Included in Future Rate Cases.**

Other than disagreements regarding the appropriate return on equity, the OUCC's recommendation to disallow a significant portion of Indiana American's capital program was one of the primary drivers behind the substantial difference between the OUCC and Indiana American in this Cause. The OUCC's testimonial position on rate base focused primarily on the level of detail in our case-in-chief. The Industrial Group did not challenge the prudence of the forecasted additions, but argued that the pace of investment could be slowed to produce a revenue reduction without sacrificing Indiana American's ability to provide safe and adequate service to its customers.

Under the Settlement Agreement, Indiana American has agreed to provide specific information in its case-in-chief in its next general rate case and thereafter with respect to its utility plant additions to rate base. In addition, Indiana American has agreed to reduce its forecasted rate base at Step 2 by \$40 million, accomplished through the imposition of a Rate Base Cap for purposes of Step 2 rates of \$1,182,170,152. That figure includes \$114,004,218 in DSIC-eligible plant additions (excluding costs of removals and retirements). In any application for DSIC including improvements placed in service before April 30, 2020, Indiana American must identify the plant additions composing the \$114,004,218 (excluding costs of removals and retirements) of distribution system additions as well as those plant additions that qualify for and for which DSIC recovery is sought. These stipulations provide certainty for customers and the utility and reduce the overall water rate increase sought by Indiana American in this case. Further, the Rate Base Cap does not foreclose inclusion of amounts in excess of the Rate Base Cap in rate base in future cases. Based upon the settlement testimony of Mr. Shimansky and Ms. Stull, the Commission finds that this resolution is reasonable in the context of the overall settlement package, and is in the public interest.

**B. Cost of Capital.**

**1. Capital Structure.** Indiana American's projected capital structure for purposes of Step 1 and Step 2 rates in this Cause reflected a forecasted equity ratio of 56% and forecasted debt ratio of 44%. The capital structure reflected in the Settlement Agreement is based on an equity ratio of 53.41%, which is closer to the Company's actual capital structure as of the end of 2018 and closer to the capital structure projected in its last financing proceeding. The evidence reflects Indiana American's commitment to achieve an actual capital structure for purposes of implementing Step 1 and Step 2 rates in line with the Settlement Agreement. The Commission finds that this stipulation is reasonable in the context of the overall settlement and supported by the evidence.

**2. ROE.** The Settling Parties agreed Indiana American's ROE will be 9.8%, representing a reduction from Indiana American's initial request of 10.8% and an increase to the OUCC and intervenors' initial ROE proposals. The agreed ROE and capital

structure will produce a weighted cost of capital of 6.17% in Step 1 and 6.25% in Step 2. Settlement testimony from the OUCC and Indiana American supported the compromise reached on this issue. The Commission finds the stipulated ROE of 9.8% is within the range of the evidence and is reasonable in the context of the overall settlement package.

**C. Agreed Revenue Deficiency Adjustments.** The Settlement Agreement resolves the Settling Parties' disputes with respect to the proposed adjustment for the ongoing decline in customer consumption. The Settlement Agreement also incorporates the Settling Parties' agreed resolution on various operating expenses reasonably incurred to provide water utility service, including purchased water, fuel and power, salaries and wages, group insurance, other benefits, support services, contract services, and regulatory expense. The Settlement Agreement also incorporates a stipulated forecasted level of depreciation, amortization and tax (other than income tax) expense. Indiana American and the OUCC presented testimony describing the basis for the compromise reached with respect to these revenue and expense adjustments as summarized above. The Commission finds the terms of the Settlement Agreement and the supporting settlement testimony show the Settling Parties' agreement on these adjustments is reasonable and within the range of the evidence.

**D. TCJA.** The Settling Parties' resolution of the remaining pending issues in Cause No. 45032 S4 ("Tax Subdocket") was presented at a settlement hearing held in that Cause and has already been found, in the Commission's Order in that Cause approving those portions of the Settlement Agreement relevant to that proceeding, to reasonably resolve all remaining pending issues in Cause No. 45032 S4. As a result of the Settlement Agreement, Indiana American's Step 1 rates in this case will include annual amortization of \$1.7 million related to excess accumulated deferred income taxes. Whether that level of amortization continues for purposes of Step 2 rates is dependent upon the Private Letter Ruling process approved by this Commission in that Tax Subdocket, in accordance with the Order in that Cause. For purposes of Step 2 rates, if the IRS issues a Private Letter Ruling that amortization of repairs related EADIT cannot be faster than under ARAM, the estimate producing annual amortization of \$1.7 million will continue to be used for purposes of Step 2 rates until the Company's next general rate case, at which point the EADIT amortization will be trued up using the actual ARAM calculation. To the extent there is action by the Commission under Paragraph 3 of the Settlement Agreement that requires a compliance filing, then that compliance filing will take place in the Tax Subdocket at the appropriate time as ordered in that subdocket proceeding.

**E. Low Income Pilot Program and Conservation.** Objections were raised by the OUCC and Industrial Group to the proposed recovery from ratepayers of the costs of Indiana American's proposed Low Income Pilot Program ("LIPP"). In settlement, the Settling Parties agreed that the costs of the LIPP should be borne equally by Indiana American's shareholders and customers. In addition, the Settling Parties agreed to add a third location to the LIPP. The Commission finds the stipulations regarding the LIPP in the Settlement Agreement are reasonable and in the public interest and should be approved.

In response to testimony offered by CAC/INCAA, Indiana American has agreed as part of the Settlement to conduct a good faith review of market potential and customer impact of a utility-sponsored water conservation program and to meet and discuss the findings of such a

review with interested Settling Parties. The Commission finds this provision of the Settlement Agreement to be a reasonable manner in which to address the concerns raised by CAC/INCAA.

**F. Certification and Implementation of Step 1 and Step 2 Rates.** The Settlement Agreement provides the Settling Parties' agreed process for implementing Step 1 and Step 2 rates, which tracks very closely the process this Commission has already approved in *Northern Indiana Public Service Company*, Cause No. 44988 (IURC 9/18/2018), which also used a forward-looking test period. For Step 1 Rates, Indiana American will certify its net utility plant in service as of April 30, 2019 and calculate the resulting Step 1 rates using the projected capital structure reflected in Table 3 of the Settlement Agreement. Step 1 rates will become effective upon the later of the date of this Order or July 1, 2019. Indiana American will serve all Settling Parties with its Step 1 certification as soon as possible after the closing of its books following April 30, 2019. For Step 2 Rates, Indiana American will certify its net utility plant in service as of the end of the test year (April 30, 2020) and calculate the resulting Step 2 rates using the projected capital structure reflected in Table 3 of the Settlement Agreement. Step 2 rates will be based upon actual net original cost rate base that does not exceed the Rate Base Cap of \$1,182,170,152 and actual depreciation expense associated with the Rate Base Cap; provided that the total increase shall not exceed \$17,500,000 over pro forma revenues at present rates. Step 2 rates will become effective upon the later of the date the Company certifies its end of test year net plant in service or May 1, 2020. The OUCC and intervening parties will have 60 days from the date of certification to state any objections to Indiana American's certified test-year-end net plant in service. If objections cannot be resolved informally, a hearing will be held to determine Indiana American's actual test-year-end net plant in service, and rates will be trued up (with carrying charges) retroactive to the date that Indiana American's Step 2 rates became effective.

For purposes of Step 2 rates, and in accordance with this Commission's order in Cause No. 45032 S4 approving the Settlement as it pertains to that docket, if the IRS issues a Private Letter Ruling that amortization of repairs related EADIT cannot be faster than under ARAM, the estimate producing annual amortization of \$1.7 million will continue to be used for purposes of Step 2 rates until the Company's next general rate case, at which point the EADIT amortization will be trued up using the actual ARAM calculation. Should an order in the Tax Subdocket with respect to Paragraph 3 of the Settlement Agreement require a change in the amortization of repairs-related EADIT, it will be reflected as a compliance filing in the Tax Subdocket. If such compliance filing occurs prior to implementation of Step 2 rates, then the effects of the compliance filing will also be reflected in Step 2 rates.

The Commission finds the stipulated rate base certification and rate implementation process is reasonable and appropriate, supported by evidence of record, and should be approved.

**G. Timing of Petitioner's Next General Rate Case.** The evidence in support of settlement reflects that the timing of Petitioner's next general rate case was a significant consideration by the Settling Parties in reaching the overall agreement in this case. The Commission finds the provision in the Settlement Agreement on this point is a reasonable manner in which to address the parties' concerns.

**H. Revenue Allocation and Rate Design.** The Settlement Agreement presents the Settling Parties' overall agreement with respect to distribution of the revenues Indiana American is to be permitted to collect as a result of the Settlement. The rate design presented in the Settlement Agreement reflects the agreements reached with respect to each customer class to fairly address that class's needs. Settlement testimony from Mr. Shimansky provides an explanation of how the agreed rate design met those express customer needs. Under the Settlement, residential customers will see a decrease from the total current fixed charges (meter charges and DSIC) from what those customers are currently paying, sale for resale customers will see an across-the-board increase (fixed and volumetric) of 8.04% after Step 2, and For large volume retail customers, the revenue increase will be recovered through the stipulated customer charges set at the current level of fixed charges, and recovering the remainder through increases in the volumetric charges. The evidence supports the stipulations on rate design for the various customer classes and the Commission finds the negotiated compromise on rate design is reasonable and should be approved.

**9. Conclusion.** The testimony supporting the Settlement Agreement addresses why the Settlement Agreement is reasonable and in the public interest. Based upon our review of the record, particularly the Settlement Agreement terms and supporting testimony and exhibits, the Commission finds the Settlement Agreement is within the range of potential outcomes and represents a just and reasonable resolution of the issues.

Based on the evidence, including the Settlement, and the findings made above, the Commission finds that the original cost of Petitioner's water and sewer utility properties as of April 30, 2020 is as follows:

## ORIGINAL COST RATE BASE

<b><u>UTILITY PLANT IN SERVICE</u></b>	\$1,940,323,928
LESS: ACCUMULATED DEPRECIATION	(\$537,583,236)
NET UTILITY PLANT	\$1,402,740,692
LESS: CONTRIBUTIONS IN AID OF CONSTRUCTION	(171,506,936)
LESS: CUSTOMER ADVANCES	(50,231,287)
LESS: NORTHWEST BILLING CHANGE	(197,031)
LESS: CAPACITY ADJUSTMENT – SOMERSET	(272,515)
ADD: ACQUISITION ADJUSTMENT	11,847
ADD: WABASH BILLING CHANGE	195,907
ADD: MATERIALS AND SUPPLIES (13 MONTH AVERAGE)	1,428,475
<b>NET ORIGINAL COST RATE BASE</b>	<b>\$1,182,170,152</b>

Based upon Settlement and the foregoing findings, we find that Petitioner's capital structure and weighted cost of capital is as follows:

### CAPITAL STRUCTURE AND OVERALL WEIGHTED COST OF CAPITAL

<b><u>Class of Capital</u></b>	<b><u>Pro Forma Amount</u></b>	<b><u>% of Total</u></b>	<b><u>(%) Cost</u></b>	<b><u>Weighted Cost</u></b>
Long-term debt	\$463,799,134	38.03%	5.19%	1.97%
Common equity	\$531,771,238	43.60%	9.80%	4.27%
ADIT	\$223,526,407	18.33%	0.00%	0.00%
Other Zero	\$80,657	0.01%	0.00%	0.00%
JDIT	\$344,492	0.03%	8.35%	0.00%
Total capitalization	<u>\$1,219,521,928</u>	<u>100.00%</u>		<u>6.25%</u>

On the basis of the Settlement and the supporting evidence presented in these proceedings and subject to the certification and update mechanism provided in the Settlement, we find that Petitioner should be authorized to increase its rates and charges to produce

additional operating revenue of up to \$17,500,000, or a 7.86% increase in total operating revenues, resulting in total annual operating revenue of \$240,249,127. This is the overall increase we authorize based upon Petitioner's rate base as of April 30, 2020. This revenue is reasonably estimated to afford Petitioner the opportunity to earn net operating income of \$74,268,732.

The Commission further finds and concludes that the Settlement is reasonable, supported by substantial evidence, and in the public interest. Accordingly, the Settlement Agreement is approved.

**10. Effect of Settlement Agreement.** Consistent with the terms of the Settlement Agreement, the Settlement Agreement is not to be used as precedent in any other proceeding or for any other purpose except to the extent necessary to implement or enforce its terms; consequently, with regard to future citation of the Settlement Agreement or of this Order, we find our approval herein should be treated in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434 (IURC 3/19/1997).

**11. Confidentiality.** Petitioner filed four motions for protective order showing documents to be submitted to the Commission pursuant to 170 IAC 1-5-15 were to be treated as confidential and protected from disclosure to the public under Ind. Code § 5-14-3-4 and Ind. Code § 8-1-2-29. The Presiding Officers granted preliminary confidential treatment for portions of Petitioner's four motions by Docket Entry as discussed in the introductory paragraphs of this Order. We now find all such information previously granted preliminary confidential treatment to be confidential and exempt from public access and disclosure by the Commission under Ind. Code § 5-14-3-4 and Ind. Code § 8-1-2-29.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION THAT:

1. The March 18, 2019 Stipulation and Settlement Agreement, a copy of which is attached to this Order, shall be and hereby is approved in its entirety.
2. Subject to the certification process set forth in the Settlement, Petitioner shall be and hereby is authorized over the course of the future test year to adjust and increase its base rates and charges for water utility service to produce an increase in total operating revenues of up to approximately 7.86% in accordance with the findings herein which rates and charges shall be designed to produce total annual operating revenues of up to \$240,249,127, which are expected to produce annual net operating income of up to \$74,268,732.
3. Petitioner shall be and hereby is authorized to implement the authorized rate increase in two steps to be implemented as set forth in Ordering Paragraphs 4 and 5 below.
4. For the first step, Petitioner shall file new schedules of rates and charges with the Water/Wastewater Division of the Commission on the basis set forth in Finding Paragraph 8, together with a schedule by NARUC subaccount detail of the actual utility plant in service as of



April 30, 2019, an affidavit certifying that such investment is actually in service, and a calculation of actual depreciation expense thereon as of April 30, 2019. Petitioner's new schedules of rates and charges shall be effective upon the later of the date of the Commission's Order in this case or July 1, 2019.

5. For the second step, Petitioner shall file new schedules of rates and charges with the Water/Wastewater Division of the Commission to update its rate base as of the end of the test year. The second step will be based upon actual net original cost rate base that does not exceed \$1,182,170,152. Petitioner shall include a schedule by NARUC subaccount detail of the actual utility plant in service as of April 30, 2020, an affidavit certifying that such investment is actually in service, and a calculation of actual depreciation expense thereon as of April 30, 2020. Step 2 rates shall become effective upon the later of the date the Company certifies the end of test year net plant in service or May 1, 2020. The OUCC and intervening parties will have 60 days from the date of certification to state any objections to the Company's certified test-year-end net plant in service.

6. All schedules of rates and charges submitted under Ordering Paragraphs 4 and 5, shall be developed according to the agreed upon rate design as filed with the Settlement Agreement and otherwise in the manner described by the terms of the Settlement Agreement, including the agreed upon allocation among customer classes.

7. As set forth in Paragraph 2(e) of the Settlement, for purposes of Step 1 rates, the Company shall use the estimate provided in the Company's rebuttal in this Cause to reflect the reduction for deferred Federal income tax expense. Whether that level of amortization continues for purposes of Step 2 rates is dependent upon the Private Letter Ruling process approved by this Commission in Cause No. 45032 S4, in accordance with the Order in that Cause. For purposes of Step 2 rates, if the IRS issues a Private Letter Ruling that amortization of repairs related EADIT cannot be faster than under ARAM, the estimate producing annual amortization of \$1.7 million will continue to be used for purposes of Step 2 rates until the Company's next general rate case, at which point the EADIT amortization will be trued up using the actual ARAM calculation. To the extent there is action by the Commission under Paragraph 3 of the Settlement Agreement that requires a compliance filing, then that compliance filing will take place in the Tax Subdocket at the appropriate time as ordered in that subdocket proceeding.

8. As set forth in Paragraph 4 of the Settlement, Petitioner shall be and hereby is authorized to implement its low income pilot program in Muncie, Terre Haute and Gary, Indiana and recover the costs of implementing such program pursuant to the terms outlined in Paragraph 4 of the Settlement.

9. The agreed rate design set forth in Appendix C of the Settlement Agreement which resets the DSIC to zero and accomplishes the agreed allocation is hereby approved.

10. The information filed by Petitioner, OUCC and other intervenors in this Cause pursuant to its four Motions for Protective Orders is deemed confidential pursuant to Ind. Code § 5-14-3-4, is exempt from public access and disclosure by Indiana law, and shall be held confidential and protected from public access and disclosure by the Commission.

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

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

**APPROVED:**

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

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Mary M. Becerra  
Secretary to the Commission