

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**PETITION OF THE TOWN OF CEDAR  
LAKE, LAKE COUNTY, INDIANA, FOR  
APPROVAL TO ADJUST ITS RATES AND  
CHARGES AND ISSUE BONDS**

**CAUSE NO. 45367**

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**David E. Ziegner, Commissioner**

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

On April 15, 2020, the Town of Cedar Lake, Indiana (“Cedar Lake”), filed a Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) in this Cause. Cedar Lake also filed the testimony and exhibits of the following witnesses:

- Randell C. Niemeyer, Town Council President;
- Pamela Sue Sargent Haase, Utility Accounting Specialist at Cedar Lake<sup>1</sup>; and
- Neil J. Simstad, Principal at NIES Engineering, Inc.

On May 27, 2020, the Commission held a prehearing conference and preliminary hearing in this Cause via teleconference. The Commission issued a Prehearing Conference Order setting the procedural schedule for this Cause.

On June 1, 2020, Cedar Lake filed the supplemental testimony and exhibits of Ms. Haase.

On July 30, 2020, Cedar Lake filed an Agreed Motion to modify procedural schedule. The motion indicated that during the course of discovery and informal discussions with the OUCC, Cedar Lake discovered four different errors or ambiguities in its prefiled testimony and exhibits that needed to be addressed. Cedar Lake and the OUCC agreed that Cedar Lake would file additional supplemental testimony in this Cause and that the procedural schedule would be adjusted accordingly to provide the OUCC additional time to prefile its case-in-chief testimony. Cedar Lake also acknowledged that its motion extended the deadline for the Commission to issue its final order in this Cause pursuant to Ind. Code § 8-1-2-42.7 and General Administrative Order 2013-5 to May 26, 2021. The Commission approved the motion on August 3, 2020.

On July 31, 2020, Cedar Lake filed the supplemental testimony and exhibits of Mr. Simstad and the second supplemental testimony and amended exhibit of Ms. Haase.

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<sup>1</sup> At the time her direct testimony and first supplemental testimony were filed, Ms. Haase was a partner with LWG.

On August 25, 2020, the OUCC filed its First Motion to Modify Procedural Schedule (Agreed), requesting a two-day extension to file its case-in-chief evidence. The Commission granted the OUCC's motion that same day.

On August 28, 2020, the OUCC filed the testimony and exhibits of the following witnesses:

- Thomas W. Malan, Utility Analyst in the OUCC's Water-Wastewater Division;
- Kristen Willoughby, Utility Analyst in the OUCC's Water-Wastewater Division; and
- Shawn Dellinger, Utility Analyst II in the OUCC's Water-Wastewater Division.

On September 14, 2020, Cedar Lake filed the rebuttal testimony of Ms. Haase and Messrs. Simstad and Niemeyer.

On September 30, 2020, Cedar Lake filed its Submission of Joint Stipulation and Settlement Agreement ("Settlement"). On October 5, 2020, Cedar Lake filed the settlement testimony of Ms. Haase. On October 6, 2020, the OUCC filed the settlement testimony of Mr. Malan.

The Commission held an evidentiary hearing in this Cause via WebEx at 9:30 a.m. on October 16, 2020. Cedar Lake and the OUCC appeared at and participated in the hearing. Cedar Lake's and the OUCC's prefiled evidence, including all supplemental and settlement evidence, were admitted into the record without objection. No members of the public appeared at or sought to participate in the hearing.

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

**1. Notice and Jurisdiction.** Due, legal, and timely notice of the hearings in this Cause was given and published as required by law. Cedar Lake is a *municipally owned utility* as defined in Ind. Code §§ 8-1-2-1(h) and 8-1.5-1-10. The Commission has authority to approve Cedar Lake's rates and charges for utility service under Ind. Code § 8-1.5-3-8(f)(2) and has authority to approve Cedar Lake's request to issue bonds under Ind. Code § 8-1.5-2-9. Therefore, the Commission has jurisdiction over Cedar Lake and the subject matter of this Cause.

**2. Cedar Lake's Characteristics.** Cedar Lake is a municipality located in Lake County, Indiana. Cedar Lake owns and operates a municipal water utility that furnishes water utility service to approximately 2,162 residential, commercial, and industrial customers.

**3. Existing Rates, Test Year, and Relief Requested.** Cedar Lake's current schedule of rates and charges for its westside service area were approved in the Commission's April 29, 2009 Order in Cause No. 43655. The tariff for its eastside rates and charges was file-stamped and deemed effective as of January 31, 2011. As established in the Commission's June 17, 2020 Prehearing Conference Order, the test year used in this Cause to determine Cedar Lake's actual and pro forma operating revenues, expenses, and operating income under its present and proposed rates is the 12-month period ending on December 31, 2019, adjusted for changes that are fixed, known, and measurable for ratemaking purposes that occur within 12 months following the end of

the test year. We find that the test year, as adjusted, is sufficiently representative of Cedar Lake's normal utility operations to provide reliable data for ratemaking purposes.

Cedar Lake requests approval of the rates and charges for water utility service set forth in the Settlement. Specifically, Cedar Lake requests that it be authorized to increase its rates and charges for water service to reflect an overall pro forma net revenue requirement of \$1,473,075, which is an annual increase of \$192,499, or 15%, over Cedar Lake's current revenues at existing rates. In addition, Cedar Lake requests authority to issue long-term debt in a maximum amount of \$3,915,000 at an interest rate not to exceed 5%.

**4. Summary of the Pre-Settlement Evidence.** Prior to the parties agreeing to the Settlement, Cedar Lake prefiled case-in-chief evidence, which it subsequently supplemented on two separate occasions to address errors and ambiguities. In addition, the OUCC prefiled case-in-chief evidence and Cedar Lake prefiled rebuttal evidence. Our summary and discussion of such evidence is limited to those portions relevant to our ultimate consideration of the reasonableness of the Settlement.

**A. Cedar Lake's Case-In-Chief and First Supplemental Evidence.**

(1) **Randell Niemeyer.** Mr. Niemeyer is the President of Cedar Lake's Town Council and a member of Cedar Lake's Utility Service Board. He testified that approximately 15 years ago, Cedar Lake began exploring the feasibility of consolidating under municipal ownership the three service areas of two different private water utilities. One of the private utilities, Utilities, Inc., provided service on the west side of Cedar Lake, and the other (Robin's Nest Water Company, Inc.) provided service on the east side to two different service areas (Krystal Oaks and Robin's Nest subdivisions). All three service areas were served under separate tariffs. After the acquisitions were completed, Cedar Lake petitioned the Commission for approval and agreed to continue the existing tariffs, rates, and charges of each utility. Cedar Lake has not adjusted its monthly user rates for any of the three different tariffs since completing the acquisitions.

Mr. Niemeyer testified that Cedar Lake's acquisition benefits the utility's customers because of Cedar Lake's ability to obtain grants, issue tax-exempt debt, and the fact that the utility is nonprofit in nature. He further testified that coordination and utilization of economies of scale in the operation of the utility has reduced ratepayer costs. Mr. Niemeyer stated that in Cause No. 45180, Cedar Lake committed to filing a rate case within three years, including a request to merge its different monthly user rates into a single tariff. In this Cause, Cedar Lake is proposing to have all of its customers pay the same monthly user rate.

Mr. Niemeyer attached a copy of Cedar Lake's proposed Bond Ordinance to his direct testimony as Petitioner's Exhibit 3. The Bond Ordinance memorializes Cedar Lake's intent to issue long-term debt in an amount not to exceed \$5,000,000. Mr. Niemeyer also attached a copy of Cedar Lake's Rate Ordinance to his direct testimony as Petitioner's Exhibit 4. The Rate Ordinance was adopted on March 17, 2020. He testified that the specific rates set forth in the Rate Ordinance were based on the recommendations and findings in the Rate and Financing Sufficiency Analysis

(“Rate Report”) prepared by Ms. Haase and attached to her direct testimony as Petitioner’s Exhibit 13.

Mr. Niemeyer testified that Cedar Lake is seeking to purchase an existing potable water supply that is currently used by a local property owner. With certain upgrades and improvements, the potable water supply should be sufficient to meet the anticipated needs of the customers located on the east side of Cedar Lake. Cedar Lake is currently discussing mutually agreeable terms with the owners for the transfer of the property to Cedar Lake. Mr. Niemeyer testified that Cedar Lake anticipates completing the acquisition within six months. Mr. Niemeyer further testified that Cedar Lake has met with its professional engineering firm, NIES Engineering, which created a list of other necessary capital improvements that will be financed with the requested long-term debt. The list of projects was attached to Mr. Simstad’s direct testimony as Petitioner’s Exhibit 11. Mr. Niemeyer stated that Cedar Lake has also prepared a Capital Improvement Plan (“CIP”), which identifies the improvements that Cedar Lake intends to make over the next six years. The CIP is also described in Petitioner’s Exhibit 11. Mr. Niemeyer testified that since the acquisition of the system, Cedar Lake has experienced relatively significant growth. This growth, coupled with an aging system, requires the Town to make certain improvements to its system so that it can provide safe, adequate, potable water and fire protection service to its customers.

(2) **Pamela Sue Sargent Haase**. At the beginning of this Cause, Ms. Haase was a partner at LWG, but thereafter became the Utility Accounting Specialist with Cedar Lake. Throughout this proceeding, Ms. Haase was and still is a Certified Public Accountant. Ms. Haase testified that LWG was retained to analyze Cedar Lake’s present schedule of rates and charges for service and, to the extent necessary, recommend adjustments that are necessary to enable Cedar Lake to meet the financial needs of its water utility and continue to adequately provide service and to provide recommendations on how Cedar Lake can transition to a single, system-wide rate structure. LWG was also retained to advise Cedar Lake on its options for financing construction of certain improvements to its waterworks system and the corresponding impact of such financing on Cedar Lake’s monthly user rates. Ms. Haase testified that she prepared a Rate and Financing Sufficiency Analysis dated April 15, 2020 (“Rate Report”) that summarizes the results of her analysis and recommendations. Ms. Haase attached a copy of her Rate Report to her direct testimony as Petitioner’s Exhibit 13.

Ms. Haase testified that in 2009, Cedar Lake acquired Utilities, Inc.’s water system and adopted Utilities Inc.’s existing rates and charges, which included a declining rate structure with seven consumption blocks. Similarly, in 2010, Cedar Lake acquired Robin’s Nest’s water systems and adopted Robin’s Nest’s existing rates and charges, which included two different rate structures, one with a declining rate structure with seven consumption blocks and the other with a single consumption block rate structure. Although the Utilities, Inc. and Robin’s Nest systems both had a seven block, declining rate structure, the Robin’s Nest rates per block were approximately 68.7% lower than the Utilities, Inc. rates. Ms. Haase stated that the Utilities, Inc. rates date back to 2008 and the Robin’s Nest rates date back to at least 2006.

Ms. Haase testified that in Cause No. 45180, Cedar Lake’s most recent Commission proceeding, Cedar Lake and the OUCC entered into a settlement agreement, which the

Commission approved. The settlement agreement required Cedar Lake to file a rate case within three years and to seek approval to merge the different user rates into a single tariffed rate.

Ms. Haase testified that she received input for her Rate Report from Mr. Simstad regarding Cedar Lake's operations and maintenance ("O&M") expenses and anticipated capital needs. Ms. Haase also met with Cedar Lake representatives to determine appropriate revenues and expenses associated with operating the utility on a day-to-day basis. Ms. Haase described her Rate Report and identified the specific schedules and exhibits in the report.

Ms. Haase testified that she made an adjustment to Cedar Lake's revenues of \$49,339, to account for the transition of the eastside district customers to the higher westside district rates. She stated that since Cedar Lake acquired the private utilities, the westside district has experienced significant growth—from 1,207 customers in 2011 to 1,842 customers in 2019, compared to growth from 312 customers in 2011 to 320 customers in 2019 in the eastside district. In other words, the westside district experienced just over 79% growth in eight years while the eastside district experienced only 0.84% growth. Ms. Haase testified that considering the economies of scale created almost exclusively by growth in the westside district, it is reasonable and logical that the eastside district would receive a larger increase than the westside district. With respect to the seven-block, declining rate structure in the westside district, Ms. Haase testified that it is appropriate to apply the declining rate structure system wide because Cedar Lake's customer mix percentages and individual consumptions have remained substantially constant despite its system growth.

Ms. Haase testified that Cedar Lake proposes to issue long-term debt to finance certain capital improvements to its water system. Ms. Haase testified that Cedar Lake considered several options for issuing debt, including through the open market, Indiana State Revolving Loan Fund Program ("SRF"), and the United States Department of Agriculture-Rural Development. At the time of her direct testimony, Cedar Lake had determined that the open market provided the most beneficial option. Ms. Haase stated that she assumed a par amount on the bonds of \$3,900,000 for a term of 20 years at an interest rate of 4.5%. Cedar Lake approved the issuance of bonds in an amount not to exceed \$5,000,000 at an interest rate not to exceed 6%. Ms. Haase testified that the actual final terms of the bonds would likely be different than her estimates and that Cedar Lake would either true-up or true-down its rates based on the actual debt terms and conditions.

In her first supplemental testimony, Ms. Haase testified that Cedar Lake's decision to offer bonds on the open market was made prior to the onset of the COVID-19 pandemic and that since that time the open market for bonds has deteriorated. Ms. Haase stated that there has been an indication from SRF that stimulus or additional loan funds may be available for water and sewer projects similar to the forgivable loans that were available under the 2009 American Recovery and Reinvestment Act. Due to these facts, Cedar Lake intends to simultaneously pursue both open market and SRF financing. Ms. Haase submitted supplemental accounting schedules as Petitioner's Exhibit 15 with calculations reflecting a possible SRF debt issuance. She testified that Cedar Lake was not requesting to adjust the amount of, or the terms and conditions, of its borrowing.

Ms. Haase summarized the current debt expenses included in her Rate Report, including Waterworks Refunding Bonds, Series 2009 (SRF), Waterworks Revenue Bonds, Series 2010 (SRF), Waterworks Revenue Bonds, Series 2010 B (Market Issue), and Waterworks Revenue Bonds, Series 2012 (SRF Pooled Issue). The required maximum annual debt service for all currently outstanding bonds is \$325,466. The addition of the proposed bonds in this Cause will raise the maximum annual debt service to \$506,465 and results in an additional debt service reserve of \$180,999 that will be required to be funded over a five-year period. Ms. Haase testified that if Cedar Lake's originally requested 13.81% rate increase is granted, its debt service coverage ("DSC") will be 1.38. This exceeds the 1.25 required DSC under the existing bond covenants and the requested 1.30 DSC that SRF has indicated it would like to see to give its approval for Cedar Lake to issue additional debt. Ms. Haase testified that she used a five-year average debt service revenue requirement rather than the maximum annual debt service. She stated that had she used the maximum annual debt service, it would have added \$55,857 to Cedar Lake's revenue requirement, changing its requested rate increase from 13.81% to 17.97% and a DSC of 1.49, which could result in a lower interest rate.

Finally, Ms. Haase testified that she included \$200,000 for rate case expense. She stated that this amount is based on her experience and recent cases involving similar utilities and requests for relief. She further stated that the amount is consistent with the rate case expense approved in Cause No. 45069 for the City of Boonville, Indiana, which involved a similar sized utility.

(3) **Neil Simstad**. Mr. Simstad is a professional engineer and a principal at NIES Engineering, Inc. He has extensive experience working with Cedar Lake since 2009, and is familiar with Cedar Lake's system and operational, maintenance, and capital needs. Mr. Simstad testified that in 2009 and 2010, Cedar Lake purchased two water utilities, Utilities, Inc., which served the west side of Cedar Lake, and Robin's Nest, which served the east side. Since acquiring Utilities, Inc., Cedar Lake's customer base on in the westside district has more than doubled from 895 customers in 2011 to 1,842 customers at the end of 2019. In the eastside district, Cedar Lake's customer base has gone from 312 customers in 2011 to 320 customers at the end of 2019. Further, Mr. Simstad stated that when Cedar Lake acquired the Robin's Nest utility system, service was limited to two subdivisions, Krystal Oaks and Robin's Nest. In the last five years, Cedar Lake has extended facilities in the Robin's Nest subdivision to serve approximately 41 homes in a third development, Lakeside Subdivision. Mr. Simstad stated that while there are a number of additional lots in Lakeside requesting service from Cedar Lake, the utility is currently without sufficient water production facilities to meet the entire demand in the area. All further development in the eastside district is on hold until Cedar Lake's proposed capital improvements can be constructed. Mr. Simstad attached a map of Cedar Lake's service area to his direct testimony as Petitioner's Exhibit 7.

Mr. Simstad testified that the westside district is served by a 300,000 gallon elevated tank and two well sites with four total wells and a capacity of between 350 gallons per minute ("gpm") to 450 gpm and a rated firm capacity of 1,000,000 gallons per day ("gpd"). Cedar Lake uses a sodium hypochlorite injection disinfection system with a transmission and distribution system composed of 8", 10", 12", and 16" mains. Mr. Simstad testified that the eastside district has its own source of supply consisting of one well site with two wells, one treatment plant, and disinfection and high service pumping facilities. The production system in the eastside district has

a rated firm capacity of 280,000 gpd. Mr. Simstad stated that certain improvements will need to be made to the westside system, but Cedar Lake's existing water supply in that area is sufficient for the foreseeable future. However, he stated that Cedar Lake's eastside system does not have sufficient capacity and does not have the capacity to provide fire protection service. Therefore, Cedar Lake must improve the facilities in the eastside district.

Mr. Simstad produced a Water Utility Capacity Analysis for Production and Storage, which he attached to his direct testimony as Petitioner's Exhibit 8. He also produced an Engineering Report that studied the capacity of Cedar Lake's existing eastside facilities. The Engineering report also evaluated and modeled potential improvements to increase capacity and meet the anticipated demand for potable water and fire protection services in the area. Mr. Simstad testified that the Engineering Report supports the need for the capital improvements to improve capacity in the eastside district. He stated that the current demand in the eastside district averages slightly less than 200 gpd per customer. Cedar Lake anticipates that future development in the eastside district could reach 150 units in the near term and an additional 300 units in the next 5 to 7 years. To be able to permit these new connections, Cedar Lake must be able to supply water at a rate of 0.87 gpm per additional residential user to meet Indiana Department of Environmental Management ("IDEM") standards for peak hour and fire protection capacity. Mr. Simstad stated that with anticipated production of 500 gpm from the proposed additional source of supply and related improvements, Cedar Lake will be able to serve the 450 anticipated connections with reserve capacity for future development.

Mr. Simstad provided an itemized list of the improvements that Cedar Lake must make to serve the growing demand for potable water and fire protection service in the eastside district, in Schedule D-6 of Petitioner's Exhibit 13, which was attached to Ms. Haase's direct testimony. Mr. Simstad testified that these improvements will be necessary within the next 18 months to meet the growing demand for water in the eastside district. Specifically, the projects include a 250,000-gallon elevated tank. Mr. Simstad stated that he has designed, prepared plans and specs for, and applied for and received an IDEM Permit for Public Water Supply Construction for the tank. He testified that in order to have sufficient supply to fill the 250,000-gallon tank and meet customer demand, Cedar Lake is proposing to acquire an existing source of supply from Paradise Cove, LLC, a landowner in Cedar Lake. Cedar Lake must also install a new water transmission main, high service pumps, motors, and controls to connect the source of supply and the water tank. Once these improvements are completed, Mr. Simstad stated, Cedar Lake will have a sufficient source of supply and pressure to meet peak and fire flow demand for customers in the eastside district and will also have redundancy in the area.

Mr. Simstad testified that the acquisition of the Paradise Cove water supply is the best option for Cedar Lake to increase its water production capacity in the eastside district because the Paradise Cove source has a proven history of producing safe, reliable water, and it is located at or near the anticipated growth in the eastside district. Cedar Lake also engaged a well driller, Peerless Midwest, to drill test wells in other potential water source locations. Although one of those locations identified a suitable amount of water, the water at that location contained hydrogen sulfide, which would have required Cedar Lake to install a treatment facility at an estimated cost of \$1,000,000. Further, Mr. Simstad stated that even if Cedar Lake identified a different source of supply with a quantity and quality similar to Paradise Cove, it could easily spend as much or more

to construct the new well and treatment facilities as the cost of simply acquiring and improving the Paradise Cove supply.

Mr. Simstad provided the cost estimates included in Schedule D-6 of Petitioner's Exhibit 13. He stated that based on his 25 years of professional experience working on similar projects, he believes the cost estimates are reasonable.

In addition, Mr. Simstad produced a list of capital projects that should be completed over the next six years and will be funded through rates. That list is attached to Ms. Haase's direct testimony as Schedules G-1 and G-2 of Petitioner's Exhibit 13. Mr. Simstad attached Petitioner's Exhibit 11 to his direct testimony, which is a list of all of Cedar Lake's existing and anticipated capital assets with their location and the anticipated date of replacement, installation, or maintenance tasks. He testified that NIES Engineering had a series of meetings with Cedar Lake management and public works staff to identify and generate a complete database of Cedar Lake's municipal water assets and their estimated date of installation. Once the database was completed, a CIP was created that included a schedule for timely replacement of the listed assets. Mr. Simstad testified that the items included in the CIP are essential to the operation of Cedar Lake's water system and that the estimated costs for the CIP projects are reasonable.

With respect to periodic maintenance expenses, Mr. Simstad testified that NIES Engineering reviewed the periodic maintenance expenses to determine if such amounts were an accurate reflection of what Cedar Lake had experienced or would experience upon completion of its proposed capital improvements. NIES Engineering compared the actual expense items with its recent experience with similar projects performed by other clients. Mr. Simstad used this information to estimate Cedar Lake's periodic maintenance expenses on a prospective basis. He stated that the final version of this study can be found on page 10 of Ms. Haase's Rate Report. Mr. Simstad testified that the items and amounts detailed in the Rate Report are an accurate reflection of the type and amount of expenses that Cedar Lake will experience for periodic maintenance.

## **B. Cedar Lake's Second Supplemental Evidence.**

(1) **Pamela Sue Sargent Haase.** Ms. Haase filed her second supplemental testimony to address four issues: (1) the financial impact of Cedar Lake's proposal to reduce its minimum monthly bill to be based on 2,000 gallons per month; (2) an adjustment to cash on hand as a result of certain stormwater credits; (3) concerns raised by the OUCC regarding Cedar Lake's system development charge ("SDC")<sup>2</sup>; and (4) her amended Rate Report.

Ms. Haase testified that for most of Cedar Lake's customer base, the minimum bill is based on 4,000 gallons per month and that for many years a number of older, fixed income customers with usage regularly less than 4,000 gallons per month have requested that Cedar Lake reduce its minimum monthly bill to 2,000 gallons per month. She stated that this reduction will result in reduced annual revenues of \$87,266. However, netting this reduction against the increased rates in the eastside district when Cedar Lake moves to a single tariff rate for all customers results in an overall annual revenue increase of \$49,339. Ms. Haase stated that her initial calculations did not

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<sup>2</sup> As set forth in the Settlement, issues regarding Cedar Lake's SDCs will be addressed in a future case.



fully capture these revenue adjustments and the oversight was discovered after informal discussions with, and data requests from, the OUCC.

Ms. Haase testified that in 2017 Cedar Lake approved an increase to its stormwater rates, including an across-the-board commercial customer credit. When the credit was implemented, the billing software did not properly handle the credit, and it instead applied the credit equally to sewer and water receipts. The result was that Cedar Lake's sewer and water cash balances were understated for 2018 and 2019. Ms. Haase corrected the water cash balance in her Amended Rate Report, and Cedar Lake is correcting the software issue to avoid such problems in the future. Ms. Haase testified that the adjustment affects only cash on hand and does not have any effect on the amount of the proposed rate increase.

Ms. Haase testified that she prepared a revised accounting report to illustrate the financial impact of the reduced minimum monthly bill and stormwater credits, which she attached to her second supplemental testimony as Petitioner's Exhibit 18. She detailed the specific changes in her second supplemental testimony.

(2) **Neil Simstad**. Mr. Simstad filed supplemental testimony to identify and describe additional capital improvements that will most likely be made in the next 10 years, depending on growth and demand. These projects include a one-million-gallon ground storage tank installation, with associated booster station, site work and piping, and well field, and the interconnection of the eastside and westside systems. Mr. Simstad stated that he created a preliminary engineering report for submission to the SRF, which included these projects and the other CIP projects to be funded by the debt issuance. Mr. Simstad testified that he believes the cost estimates provided for the projects are reasonable.

### C. **OUCC's Case-In-Chief Evidence.**

(1) **Thomas Malan**. Mr. Malan is a Utility Analyst in the OUCC's Water-Wastewater Division. Mr. Malan testified that the OUCC recommended an overall rate increase of 4.2% to be implemented in two phases with a 4.4% rate *decrease* in the first phase and a 9.0% *increase* in the second phase. He sponsored exhibits detailing the OUCC's proposed adjustments to Cedar Lake's operating expenses, salaries and wages, employee benefits, payroll taxes, system delivery expense, and periodic maintenance. He also summarized Cedar Lake's requested relief.

Mr. Malan testified that the OUCC proposed a two-phase rate adjustment because there is a significant gap between when an order will be issued by the Commission and when Cedar Lake will reasonably be able to secure financing, which will happen in July 2021 or later as reflected in Cedar Lake's Exhibit 19, Schedules D-5 and D-7. He testified that phasing in rates is a reasonable method to protect Cedar Lake's ratepayers from unnecessarily paying higher rates during the time Cedar Lake will have no additional debt service expense.

Regarding his recommended Phase 1 decrease, Mr. Malan testified that, based on his review, Cedar Lake's pro forma net revenue requirement is \$1,227,537 but pro forma operating revenue is \$1,283,271, yielding a decrease of \$55,733 after applying the gross revenue conversion

factor. His Phase 1 revenue requirement recommendation included increased operating expenses, PILOT, and extensions and replacements (“E&R”) but no additional debt service costs. His recommendation also included increased operating revenues to reflect assumptions regarding customer growth and additional revenues from the move to single tariff pricing, which will be offset by the reduction of the minimum charge to 2,000 gallons. He noted that Phase 1 will bring each customer to the same tariff rate eliminating any confusion among Cedar Lake customers.

Mr. Malan testified that his recommended Phase 2 increase is entirely due to the addition of debt service costs for Cedar Lake’s proposed debt financing. Mr. Malan noted that all Cedar Lake customers will be on the same tariff when Phase 2 is implemented and that the proposed Phase 2 increase would be across-the-board with the same increase applied to all customers.

Mr. Malan provided detailed testimony regarding the adjustments to Cedar Lake’s operating revenues and expenses proposed in the OUCC’s case in chief. He explained that the OUCC accepted all of Cedar Lake’s operating revenue adjustments but that the OUCC’s pro forma operating revenues of \$1,328,290 are based on Cedar Lake’s 2019 IURC annual report, which was the basis for its test year income statement and balance sheet. He stated that the 2019 IURC annual report reflects test year operating revenues of \$1,328,290, which is \$11,747 more than the operating revenues reflected in Cedar Lake’s income statement in this Cause (Exhibit A of Petitioner’s Exhibit 19).

Mr. Malan testified that the OUCC proposed pro forma operating expenses and taxes of \$742,815. The OUCC accepted Cedar Lake’s expense adjustments for State Board of Accounts audit costs, non-recurring contractual servicers, removal of tap costs, and rate case expense amortization. Mr. Malan proposed additional expense adjustments to remove non-water utility legal costs, engineering costs that should be considered capital, and out-of-period expenses. With respect to salaries and wages expense, Mr. Malan excluded expenses related to several positions that he considered unrelated to providing water utility service, including the Town Council, Chief Deputy CPS, mechanic, building administrator, building coordinator, on-call building inspector, and PT inspector. Mr. Malan testified that those positions did not appear to have a sufficient relationship to providing water utility service. Mr. Malan based his proposal on job descriptions provided by Cedar Lake in response to discovery and, in the case of the Town Council and Chief Deputy CPS, because no job description was provided. Mr. Malan also made corresponding adjustments to group insurance benefits, PERF, and payroll taxes.

Mr. Malan testified that he disagreed with Cedar Lake’s proposed system delivery expense adjustment because the test-year purchased power expense and additional volumes included in its adjustment were overstated and, and he proposed an adjustment of \$7,763 based on a \$0.50 pro forma cost per thousand gallons and additional consumption of 15,525,405 gallons. Mr. Malan proposed a reduction to legal expense of \$2,478 to remove legal expenses allocated to the utility from the Town of Cedar Lake because the expenses related to general town matters and not utility matters. He further testified that the water utility was directly billed for any water utility related legal expenses. Mr. Malan also proposed a \$10,325 reduction to test-year professional services expense to remove engineering costs related to various capital projects, which he asserted should be capitalized as part of the costs of those projects. Mr. Malan identified four invoices totaling

\$7,757 that occurred outside of the test year, and he recommended removal of that amount from test-year operating expenses.

With respect to periodic maintenance, Mr. Malan proposed a \$71,046 increase to test year operating expense of \$31,679 to yield a pro forma periodic maintenance expense of \$102,725. Mr. Malan recommended that Cedar Lake be required to deposit all periodic maintenance funds in a restricted account to be used only for that purpose to ensure the funds are available when needed and be required to provide a report on this fund as part of its IURC annual report filing.

Mr. Malan recommended an annual pro forma E&R revenue requirement of \$170,389. Similar to his proposal regarding periodic maintenance funds, Mr. Malan recommended that these funds also be deposited into a restricted account to be used only for that purpose and Cedar Lake be required to provide a report on this fund as part of its IURC annual report filing.

Mr. Malan recommended phasing in Cedar Lake's PILOT expense for projects that will be funded with Phase 2 debt. He stated that this removes utility plant in service that has not been constructed or funded from Phase 1. He proposed a Phase 1 PILOT amount of \$2,970 and a Phase 2 amount of \$4,607.

Mr. Malan noted Cedar Lake's proposed debt issuance in this case will be used to fund the same capital projects used to support the eastside SDC approved in Cause No. 45180. He further noted that this proposal would recover the costs of the projects twice—once through the eastside SDC and again through the debt service revenue requirement included in customer rates. Mr. Malan recommended that Cedar Lake be required to file a docket case with the Commission within six months after an order in this Cause to justify the continuation of the eastside SDC. Mr. Malan also recommended all eastside SDCs collected prior to the closing on the debt be used to fund the debt service reserve required for the proposed debt issuance.

Mr. Malan explained that Cedar Lake has been approved to collect two separate and distinct SDCs. He stated that the two charges are for two different systems with different customer growth needs and recommended that Cedar Lake be required to deposit all SDC funds collected into separate restricted accounts. Mr. Malan also recommended that Cedar Lake provide a report on these funds as part of its IURC annual report filing.

(2) **Kristen Willoughby.** Ms. Willoughby is a Utility Analyst in the OUCC's Water-Wastewater Division. She testified regarding Cedar Lake's proposed capital improvement projects, proposed E&R revenue requirement, and periodic maintenance expenses.

Ms. Willoughby testified that Cedar Lake currently has a total storage capacity, including its clear well, of 381,800 gallons. Without the clear well, Cedar Lake has a storage capacity of 321,800 gallons. She stated that with total average sales in 2019 of 386,162 gallons per day, Cedar Lake does not meet the Ten States Standards recommendation that total water storage meet average daily demands. Once Cedar Lake installs its proposed 250,000-gallon Krystal Oaks tank, it will have the recommended storage capacity. Ms. Willoughby also testified that in the last five years, Cedar Lake's water loss values have decreased from 20.4% to 10.4% of water produced.

Ms. Willoughby testified that Cedar Lake has developed a 20-year Capital Asset Management Plan, which it seeks to fund by borrowing funds and through rates in its proposed E&R revenue requirement. Ms. Willoughby stated that the projects through 2025 appear to be reasonable and should enhance Cedar Lake's ability to effectively and efficiently serve its customers. The OUCC did not evaluate projects occurring after 2025.

Ms. Willoughby testified that it is inappropriate to use funds from the eastside district SDC to pay for growth related projects in the westside district because the two sides are not interconnected and the westside district has its own SDC. Ms. Willoughby also testified that it was inappropriate to use the funds to pay to interconnect the eastern and western district systems because no evidence has been presented that interconnection would be a growth-related project or why new eastside district customers should pay a great portion than new westside district customers. This, combined with concerns about double funding proposed projects through SDCs and borrowing, prompted Ms. Willoughby to recommend that Cedar Lake be required to file a case to justify and amend its eastside SDC.

Ms. Willoughby proposed adjustments to Cedar Lake's proposed E&R expense to remove projects for which Cedar Lake did not provide sufficient support, these included replacement of piping under concrete at the Parrish pumping station and a portion of the costs associated with the replacement of water meters. Her adjustments resulted in a \$40,182 decrease to Cedar Lake's proposed E&R revenue requirement.

With respect to periodic maintenance, Ms. Willoughby testified that Cedar Lake requested a pro forma annual revenue requirement of \$6,402 for cleaning and inspection of wells based on a fifteen-year cycle for each well. Ms. Willoughby cited multiple sources which recommend annual or biannual evaluations of wells and pumps, and recommended the Commission approve Cedar Lake's proposed revenue requirement. She also accepted Cedar Lake's proposed expense for GIS mapping. Ms. Willoughby testified that Cedar Lake has proposed to enter into a Tank Asset Management Program with Suez to implement a comprehensive management program for the Parrish elevated tank and the proposed Krystal Oaks elevated tank. The agreement will provide for annual inspection and service; washout, touch-up, and inspection every three years; engineering, inspection, and repair services as needed; exterior coating every 11 to 13 years; and interior cleaning and repainting every 14 to 16 years. Ms. Willoughby adjusted Cedar Lake's proposed expense for the tank management program to account for the fact that the Krystal Oaks elevated tank will not be completed until 2023 and to match the actual amount of the proposed program costs submitted by Suez. Ms. Willoughby also recommended that the Commission require Cedar Lake to file its completed contract with Suez with the OUCC and the Commission. Ms. Willoughby also recommended the exclusion of \$18,000 in engineering and contingencies for painting the Parrish tank and the Meadow Lark Lane tank. Additionally, she recommended that the new metal roofs on the Parrish pump building and the Havenwood water pumping station be amortized over 40 years instead of 20 years because they are made of metal which has a life expectancy of 40-70 years.

Finally, Ms. Willoughby recommended several resources to Cedar Lake for good management and operation guidance for water utilities.

(3) **Shawn Dellinger.** Mr. Dellinger is a Utility Analyst II in the OUCC's Water-Wastewater Division. He recommended that Cedar Lake be authorized to borrow \$3,915,000 from the SRF at an estimated interest rate of 2.25%. Mr. Dellinger testified that the overall cost of debt will be significantly lower with the SRF funding than borrowing on the open market because SRF interest rates are estimated to be 2.25% while open market interest rates are estimated to be 4.5%. Mr. Dellinger stated that if Cedar Lake does not qualify for "standard" SRF loans, SRF offers pooled financing, which allows borrowers to take advantage of a pass-through AAA interest rate from an IFA Bond offering. This would result in a higher interest rate than a standard SRF loan, but still significantly lower than anticipate open market rates. Based on a five-year average, Mr. Dellinger calculated revenue requirements of \$324,642 for Cedar Lake's current debt and \$92,536 for proposed SRF debt for a total of \$417,148. He recommended that the Phase 2 rates reflecting the increased debt service and debt service reserve not be implemented until Cedar Lake makes a filing certifying that its 2021 SRF bond issuance will take place within 45 days.

With respect to debt service reserve, Mr. Dellinger disagreed with Cedar Lake's calculation of additional debt service reserve required because Cedar Lake is requesting financing for projects in the eastside district for which it has and will be also collecting SDCs. He stated that as of July 30, 2020, Cedar Lake has collected a total of \$25,560 in SDCs from eastside district customers. Mr. Dellinger recommended that the proceeds from the eastside district SDCs be used to fund the debt service reserve, which reduces the amount to be included in Cedar Lake's pro forma revenue requirement from \$19,753 to \$14,641. He also recommended that the Commission require Cedar Lake to place debt service reserve funds into a restricted account and to notify the Commission and the OUCC if it uses those funds for any purpose other than to make the last payment on its current or proposed debt issuances.

Mr. Dellinger testified that a debt service coverage ratio is a measurement of a utility's available cash flow to pay its debt obligations and is calculated by dividing the borrower's net operating income ("NOI") by the annual bond payment (principal and interest). Financing may not be available to a borrower if the debt service coverage ratio is not robust. Mr. Dellinger testified that the SRF requires a debt service coverage ratio of 1.25 but prefers that the initial debt service coverage ratio be at least 1.30. Mr. Dellinger calculated a debt service coverage ratio for Cedar Lake of 1.53 in Phase 1 and 1.43 in Phase 2.

Finally, Mr. Dellinger testified that the Commission should require Cedar Lake to true up its proposed annual debt service once the interest rates on its proposed debt are known. Mr. Dellinger recommended that Cedar Lake file a report within 30 days after closing its long-term debt explaining the terms of the new loan, the amount, if any, of debt service reserve, and an itemized account of all issuance costs. He stated that the report should also include a revised tariff, amortization schedule, and calculate the rate impact in a manner similar to the OUCC's schedules. Mr. Dellinger further recommended that the OUCC have 14 days after service of the true-up report to challenge the proposed true up or Cedar Lake's calculations.

**D. Cedar Lake's Rebuttal Evidence.**

(1) **Randell Niemeyer.** Mr. Niemeyer filed testimony responding to the OUCC's proposed two-phase rate increase, the role of the Town Council in overseeing the operation and maintenance of the water utility, and the financing of future projects. He testified that Cedar Lake intends to move forward with its proposed projects immediately after receipt of a Commission order. He stated that due to the anticipated timing for issuance of an order in this Cause and closing on the proposed bonds, a phase-in of monthly user rates would not be appropriate and would likely confuse customers who could receive three different bills in a three month timespan.

With respect to the allocation of Town Council wage and salary expenses, Mr. Niemeyer testified that the Town Council acts as the legislative and fiscal body for the Cedar Lake and is responsible for the overall management and direction of its water utility. Specifically, the Town Council reviews all contracts; approves all rates; meets with engineers, accountants, and lawyers; adopts ordinances and resolutions; oversees or actively participates in the negotiation for the acquisition of land, land rights, and facilities for the water utility; and ensures that the utility takes the steps necessary to meet the service demands of its customers. He estimated that the Town Council spends at least 25% of its time on water utility matters.

Mr. Niemeyer testified that at the beginning of this case Cedar Lake planned to issue bonds on the open market, but due to the potential availability of grants and low-interest loans, Cedar Lake has expanded its financing options to include the SRF. He stated that at one point Cedar Lake was concerned that the open market would not be an option due to economic circumstances arising out of the COVID-19 pandemic, but that the market has changed such that the open market may be a less expensive option than the SRF. Mr. Niemeyer testified that Cedar Lake will monitor the financing market to determine the lowest cost alternative for its customers.

(2) **Pamela Sue Sargent Haase.** Ms. Haase responded to the OUCC's adjustments, many of which were ultimately addressed in the Settlement. Ms. Haase agreed with the OUCC's proposed recalculation of additional consumption due to customer growth and the removal of an out-of-period purchased power invoice.

Ms. Haase disagreed with the OUCC's proposed two-phase rate increase. She testified that Cedar Lake considered a similar process, but it did not make sense to incur the cost and potential confusion of phasing in any rate adjustment. She presented a possible timeline where Cedar Lake's existing rates would be in effect in June 2021, the Phase 1 rates would be in effect in July 2021, and the final rates would be in effect in August 2021. She concluded this would be unnecessary, unduly burdensome, and likely confusing to Cedar Lake's ratepayers. She did, however, agree with the OUCC's recommendation that Cedar Lake's final rates be in effect at least 45 days before closing on the financing.

Ms. Haase testified that the water sales listed in Cedar Lake's 2019 Annual Report and Petitioner's Exhibit 13 are not materially different. She explained that the Annual Report uses accrual basis accounting while her accounting report in this Cause substantially uses cash basis

accounting. She stated that had the OUCC also used the consumption data from the Annual Report, the OUCC's calculation of delivery expense would have increased and resulted in higher rates.

Ms. Haase testified that the Chief Deputy Clerk Treasurer is responsible for payroll for the water utility, health benefits for the utility, timely payments of sales tax and utilities receipts tax, monitoring billing receipts, assisting with materials and supplies inventory, assisting with fixed asset reporting, preparing operating budgets, management control over expenditures, and other utility-related duties. She stated that allocating 18% of the Chief Deputy's time to the water utility is a fair and reasonable estimate of the time spent on utility-related matters. Ms. Haase provided similar support for other Cedar Lake employees excluded from allocation to the utility by the OUCC.

Ms. Haase testified that the engineering expenses pertained to services rendered for proposed subdivision or development plans. She stated that such expenses cannot be eliminated absent a determination that the expenses were part of a larger capital project funded through water revenues. That was not the case with the disputed expenses because the subdivision/development project costs were not funded through water utility revenues. Rather, Cedar Lake incurred the costs to be certain that proper state and local codes, ordinances, and other project requirements were incorporated into the plans prior to construction. She stated that Cedar Lake anticipates incurring similar costs on an annual basis.

With respect to the segregation of funds in restricted accounts, Ms. Haase testified that there is no evidence that Cedar Lake is not maintaining its system, making requisite improvements, or somehow providing less than adequate service. Further, she stated that improvements and repairs cannot always be planned, and that Cedar Lake needs flexibility to use its funds to maintain its system. She concluded that the OUCC's proposal is unnecessary, burdensome, and would only increase the expense of operating a utility.

Ms. Haase testified regarding her review of the OUCC's proposals to reduce depreciation expense, recommending an average amount of \$220,887 per year and PILOT, recommending an amount of \$46,030. She agreed with the OUCC's proposed average annual debt service requirement. In light of her testimony, Ms. Haase amended her accounting report, which she attached to her rebuttal testimony as Petitioner's Exhibit 29.

**(3) Neil Simstad.** Mr. Simstad addressed engineering-related issues raised by the OUCC, specifically the elimination of certain expenses associated with Cedar Lake's CIP; a reduction to periodic maintenance; Cedar Lake's SDC; and management issues.

Mr. Simstad testified that Cedar Lake proposes to fund its CIP through depreciation rather than E&R and that it is inappropriate to reduce depreciation through the elimination of expenses associated with anticipated capital improvements. With respect to meter replacements, Mr. Simstad testified that Cedar Lake's staff is currently responsible for operating the system on a daily basis; inspecting, reviewing, and connecting approximately 200 new services each year; overseeing and/or performing inspections, maintenance, and repairs to its system; and overseeing a major expansion to its system. In light of this, Cedar Lake is concerned that its staff is unable to perform the meter replacement program in timely manner, and, therefore, Mr. Simstad assumed

that Cedar Lake would hire a private contractor to perform the replacements. Mr. Simstad also provided additional details about the concrete piping replacement project, which he stated demonstrates the reasonableness of the estimated cost.

Mr. Simstad generally agreed with the OUCC's periodic maintenance and tank maintenance recommendations with the exception of the elimination of engineering and contingency costs, which he stated would be included in any estimate from a tank costing specialist who prepares the inspection report, plans, specifications, and bidding documents for a water utility. He stated that if such funds were eliminated, Cedar Lake would have insufficient funds to complete the periodic maintenance. Finally, Mr. Simstad stated that he does not object to reviewing and discussing the operating support manuals recommended by Ms. Willoughby.

## **5. Settlement and Supporting Evidence.**

### **A. Summary of the Settlement.**

(1) **Revenue Requirement, Rates, and Charges.** The parties agree that, subject to the other terms of the Settlement, Cedar Lake should be authorized to increase its rates and charges for water service to reflect an overall pro forma net revenue requirement of \$1,473,075, which is an annual increase of \$192,499 or 15% over Cedar Lake's current revenues at existing rates. The parties further agree that the rate increase shall be implemented in one phase effective no sooner than 60 days in advance of the anticipated date for closing on Cedar Lake's long-term debt or bonds, subject to true-up following the actual closing. Accordingly, Cedar Lake may file a tariff reflecting the new rates and charges within 60 days of the anticipated date for closing on the Bonds. The parties attached Exhibit A to the Settlement, which includes the accounting schedules reflecting the agreed upon revenue requirement, the proposed rates and charges, and an estimated amortization schedule for Cedar Lake's outstanding and proposed indebtedness.

(2) **Operating and Maintenance Expense Adjustments.** The parties agree to the following adjustments to Cedar Lake's O&M expenses: an allocation of 17.8% of the Town Council's time, wages, and any payroll taxes; an allocation of 18% of the salaries, benefits, and payroll tax for the Chief Deputy Clerk-Treasurer; a reduction of \$2,478 to legal services; a reduction of \$10,325 to engineering invoices that are capital in nature; a reduction of \$7,757 for out-of-period expenses; and an annual amount of \$102,725 for periodic maintenance expense.

(3) **Depreciation Expense.** The parties agree to an amount of \$200,629 for depreciation expense based on an average depreciation for Cedar Lake over the next five years. The agreed first year of depreciation is \$160,860 and each subsequent year is \$210,571 based on the assumed completion of certain capital improvements. The parties agree that if Cedar Lake has not completed the capital improvements necessary to justify the agreed upon increase to depreciation expense by December 31, 2022, Cedar Lake shall decrease its rates to reflect a lower amount of depreciation based on the capital improvements actually completed.

(4) **Payment in Lieu of Taxation ("PILOT").** The parties agree to an amount of \$42,756 for PILOT based on an average PILOT calculation for Cedar Lake over the



next five years. Similar to the depreciation calculation, the agreed first year is \$29,659 and each subsequent year is \$46,030 based on the assumed completion of certain capital improvements. The parties agree that if Cedar Lake has not completed the capital improvements necessary to justify the agreed upon increase in PILOT by December 31, 2022, Cedar Lake shall decrease its rates to reflect a lower amount for PILOT based on the cost of the capital improvements that were completed.

(5) **Tank Painting and Maintenance.** The parties agree to an amount of \$83,455 for tank painting and maintenance expenses. Cedar Lake intends to enter into an agreement with Suez for tank painting and maintenance. Upon entering into such agreement, Cedar Lake shall advise the OUCC and provide a copy of the executed agreement. If Cedar Lake fails to enter into such agreement within 60 days of the date of an order approving the Settlement, or if such agreement terminates, then Cedar Lake shall place the \$83,455 annual amount into a restricted account to be used for tank painting and maintenance only.

(6) **System Development Charges.** The parties agree that on or before September 1, 2021, Cedar Lake shall file a petition with the Commission requesting approval of a system development charge for its eastside territory (“Future SDC Case”). Until the Future SDC Case is filed, Cedar Lake agrees to place any SDCs collected from its eastside territory into a restricted account to be used only for construction costs on projects for eastside operations, subject to the Commission’s order in the Future SDC case.

(7) **Amount of, and Interest on, Bonds.** The parties agree that Cedar Lake should be authorized to issue long-term debt (bonds) in the maximum amount of \$3,915,000 at an interest rate not to exceed 5%. Cedar Lake’s revenue requirement shall include an amount of \$417,148 for principal and interest payments and \$19,753 to fund debt service reserve. The parties agree that Cedar Lake shall pursue funding through the SRF; however, Cedar Lake may issue bonds on the open market if such borrowing is no more expensive than borrowing through the SRF.

(8) **True-Up.** The parties agree that within 30 days after closing on the debt issuance, Cedar Lake shall file a true-up report in this Cause describing the final terms of the bonds, the amount of debt service reserve, and the amortization schedule for the bonds. The OUCC shall have 14 calendar days from the filing of the true-up report in which to object to the true-up report.

If there is no objection to the true-up report and the actual annual debt service on the bonds differs from the originally estimated amount of \$417,148, Cedar Lake shall file with the Commission a revised tariff adjusting the rates to include the final amount of annual principal and interest on the bonds. If the actual terms of the financing are such that the annual debt service amount is less than \$417,148, Cedar Lake need not file a revised tariff if the parties agree that the difference is immaterial for purposes of determining whether Cedar Lake’s rates should be revised. In this event, Cedar Lake shall file a notice of such consensus in lieu of a revised tariff. Conversely, if the actual terms of the financing are such that the annual debt service amount is more than \$417,148, Cedar Lake may, in its sole discretion, elect not to file a revised tariff.

**B. Settlement Testimony.**

(1) **Pamela Sue Sargent Haase.** Ms. Haase testified that the Settlement resolves all of the issues pending between the parties. The parties agreed to a 15% increase over Cedar Lake’s current revenues at existing rates no sooner than 60 days in advance of the anticipated date of closing for Cedar Lake’s issuance of long-term debt (bonds). Ms. Haase included the following table summarizing the agreed revenue requirement and resulting increase in annual revenues:

Operating Expenses	\$ 757,015
Payment in Lieu of Property Taxes	42,756
Taxes Other Than Income	45,994
Depreciation Expense	200,629
Debt Service – Current Debt	324,612
Debt Service – Proposed Debt	92,536
Debt Service Reserve	<u>19,753</u>
Total Revenue Requirements	1,483,295
Less: Revenue Requirement Offsets	
Other Income	<u>(10,220)</u>
Net Revenue Requirements	1,473,075
Less: Revenues at Current Rates Subject to Increase	<u>(1,283,271)</u>
Net Revenue Increase Required	<u>\$ 189,804</u>
Divide by Revenue Conversion Factor (100%-1.4%)	0.986
Recommended Increase	\$ 192,499
Calculated Percentage Increase	<u>15.00%</u>

Ms. Haase testified regarding specific adjustments agreed to by the parties in the Settlement. Cedar Lake accepted the OUCC’s proposed pro forma test year operating receipts of \$1,293,491, comprising pro forma water sales receipts of \$1,277,566, plus test-year penalty receipts of \$5,705 and test-year miscellaneous operating receipts of \$10,220. Ms. Haase testified that the parties disagreed about how much employee time and expense should be allocated to the water utility. As a result of the negotiations, the OUCC agreed that 18% of the wages, insurance, PERF, and payroll taxes associated with the Chief Deputy Clerk-Treasurer should be assigned to the water utility. For members of the Town Council, the parties agreed to an allocation of 17.8%. The parties also agreed that the fleet mechanic, building administrator, building coordinator, and on-call inspectors would not be allocated to the water utility at this time.

With respect to legal expenses, Ms. Haase testified that Cedar Lake accepted the OUCC’s \$2,478 reduction to test-year legal expenses. Cedar Lake also accepted the OUCC’s \$10,325 reduction for engineering expenses that the OUCC believes are capital in nature. Ms. Haase testified that although she does not agree with the OUCC’s position, Cedar Lake accepted the

adjustment for purposes of settlement. Similarly, Cedar Lake accepted the OUCC's \$7,757 reduction for out-of-period expenses and its \$1,732 reduction to periodic maintenance expense.

Ms. Haase testified that in its case-in-chief, the OUCC proposed a reduction in Cedar Lake's annual depreciation expense from \$210,571 to \$170,389. After much discussion and negotiation, the parties agreed to an annual depreciation expense of \$200,629 in the Settlement. The parties reached this amount by noting that the amount of depreciation in the first year that rates are in effect—prior to completion of the projects proposed to be financed in this Cause—will be \$160,860. In years two through five, after the projects are completed, the annual depreciation will be \$210,571. The parties used the average of one year at \$160,860 and four years at \$210,571 to reach the agreed annual depreciation amount of \$200,629. Ms. Haase testified that the parties chose to average depreciation over five years because they generally agreed that the rates established in this Cause would be in effect for at least five years. Ms. Haase further testified that if Cedar Lake does not complete the projects proposed to be financed in this Cause by December 31, 2022, then Cedar Lake will reduce its rates to reflect a lower amount of depreciation based on the capital improvements that were actually completed.

Ms. Haase testified that the parties agreed to an amount of \$42,756 for PILOT using a similar process to that used for depreciation. Specifically, the parties agreed to an annual PILOT expense of \$42,756 by taking the average of one year, prior to the completion of the projects, at \$29,659 and years two through five, after the projects are completed, at \$46,030. Also similar to the depreciation process, if Cedar Lake does not complete the projects by December 31, 2022, then it will reduce its PILOT amount to reflect only the complete capital improvements.

With respect to Cedar Lake's eastside district SDC, Ms. Haase testified that the parties were unable to reach agreement. However, the parties agreed that Cedar Lake will file a new case seeking approval of a new SDC for its eastside district on or before September 1, 2021. Cedar Lake anticipates requesting a single SDC for its eastside and westside service areas. Ms. Haase also testified that the parties agreed to a debt service reserve amount of \$19,753, which is consistent with her rebuttal testimony.

For the following reasons, Ms. Haase testified that the Settlement is in the public interest. Ms. Haase testified that the Settlement will benefit Cedar Lake and its customers. The Settlement allows the parties to save time and expense in responding to further discovery, preparing for a hearing, conducting witness preparation, attending the hearing, and filing proposed orders and responsive briefs. Cedar Lake will be able to use these saved funds for capital projects to benefit current and future customers.

Ms. Haase testified that entering into the Settlement also shortens the timeframe for the completed case to be presented to the Commission for an order, which should allow Cedar Lake to more expeditiously move forward with the issuance of Bonds and completion of the related projects. This is important because Cedar Lake has very little water production capacity for its eastside territory. A number of developers and property owners have requested service from Cedar Lake in this particular area, but Cedar Lake has had insufficient capacity to allow a significant number of new connections. By timely issuing Bonds and proceeding with the completion of the

related projects, Cedar Lake will be able to meet the demand from current and future customers in the eastside area.

Ms. Haase testified that obtaining an order as quickly as possible would also allow Cedar Lake to potentially access the SRF pooling program, which could occur as early as March 2021. In addition, the Settlement provides Cedar Lake flexibility to issue debt through SRF or on the open market, depending on which avenue offers the lowest rate for its customers. Ms. Haase also testified that the Settlement allows Cedar Lake to issue debt in an amount not to exceed \$3,915,000 as it originally requested, at an interest rate not to exceed 5%. The rates agreed to in the Settlement result in debt service coverage of 1.61, which meets the minimum threshold for SRF funding and allows Cedar Lake, if necessary, to issue bonds on the open market at the lowest possible rate.

With respect to tank painting and maintenance, Ms. Haase testified that the Settlement allows Cedar Lake to enter into a tank painting and maintenance agreement with Suez. If Cedar Lake does so, the Settlement requires it to file a copy of the agreement with the Commission. If Cedar Lake does not enter into the agreement with Suez, the Settlement requires Cedar Lake to place the \$83,455 annual expense amount into a restricted account to be used only for tank painting or tank maintenance expenses. In either case, the Settlement ensures that funds are available for tank painting and maintenance expenses.

Finally, Ms. Haase requested that the Commission approve the Settlement in its entirety.

2. **Thomas Malan.** Mr. Malan testified in support of the Settlement and stated that the public interest will be served if the Commission approves the Settlement. Much of Mr. Malan's testimony repeats and confirms the specific details of the Settlement testified to by Ms. Haase.

Mr. Malan's testimony included the table comparing the Settlement revenue requirement to those proposed by the OUCC in its case-in-chief and Cedar Lake in its rebuttal evidence:

**Table 1: Revenue Requirement Comparison**

	PET			Settlement More (Less)	
	OUC	Rebuttal	Settlement	OUC	PET
Operating Expenses	\$ 698,574	\$ 833,401	\$ 757,015	\$ 58,441	\$ (76,386)
Taxes other than Income	44,241	49,379	45,994	1,753	(3,385)
Depreciation Expense	170,389	210,571	200,629	30,240	(9,942)
Payment in Lieu of Taxes	4,607	46,030	42,756	38,149	(3,274)
Debt Service					
Current Debt	324,612	324,612	324,612	-	-
Proposed Debt	92,536	92,536	92,536	-	-
Debt Service Reserve	14,641	19,753	19,753	5,112	-
Total Revenue Requirements	1,349,600	1,576,282	1,483,295	133,695	(92,987)
Revenue Requirement Offsets:					
Interest Income	(3,029)	-	-	3,029	-
Other Income	(10,220)	(9,982)	(10,220)	-	(238)
<i>Pro forma</i> Net Revenue Requirements	1,336,351	1,566,300	1,473,075	136,724	(93,225)
Less: Revenues at current rates subject to increase	(1,283,271)	(1,271,762)	(1,283,271)	-	(11,509)
Revenues Not Subject to Increase	-	-	-	-	-
Net Revenue Increase Required	53,080	294,538	189,804	136,724	(104,734)
Divide by Revenue Conversion Factor (100% - 1.4%)	0.986	0.986	0.986	0.986	0.986
Recommended Increase	\$ 53,834	\$ 298,720	\$ 192,499	\$ 138,665	\$ (106,221)
Recommended Percentage Increase	4.20%	23.49%	15.00%	10.80%	-8.49%

Mr. Malan testified that the parties agreed to a pro forma O&M expense of \$757,015 and pro forma taxes other than income of \$45,994. With respect to salary and wage expense, Mr. Malan testified that Cedar Lake agreed to the OUC's exclusion of allocated salary and wage expenses except for the inclusion of 17.8% of Town Council salaries and associated payroll tax expense and all of the proposed 18% of the Chief Deputy Clerk Treasurer's salary and associated employee benefits, pension expense, and payroll tax expense. With respect to periodic maintenance expense, the parties agreed that test-year periodic maintenance costs had not already been included in Cedar Lake's test-year operating expenses. Therefore, the parties agreed to a pro forma periodic maintenance expense amount of \$102,725, including \$83,455 for tank painting and maintenance.

Mr. Malan testified that for purposes of settlement, the parties agreed to include \$200,629 of annual depreciation expense in the revenue requirement, based on the average depreciation expense for the five-year life of the rates. Mr. Malan testified that Cedar Lake originally proposed an E&R revenue requirement of approximately \$210,000, but Cedar Lake revised its request to seek depreciation expense rather than E&R in its second supplemental filing. Mr. Malan explained that while E&R is usually based on a five-year average of anticipated expenditures, depreciation expense is typically based on total construction cost of utility plant in service at the end of the test year. Normally, if the Commission increases rates to reflect new plant built and placed in service after rates are in place it would be implemented through a second phase. However, Cedar Lake preferred a single-phase increase to eliminate the cost and other potential consequences of a second phase. Mr. Malan stated that for purposes of Settlement, and based on the facts of this case including all terms of the Settlement, averaging depreciation expense to include the anticipated depreciation over five years is an acceptable method of achieving Cedar Lake's goal of recovering depreciation expense with only one increase.

Mr. Malan further stated that one of the necessary factors to make this provision reasonable is Cedar Lake's commitment to decrease its rates if it falls short of its projected capital costs. Cedar

Lake has agreed to decrease its rates to reflect the actual costs of its capital improvements as of December 31, 2022, if it has not spent the amount used to calculate the average. This ensures that Cedar Lake customers pay rates based on depreciation expense for projects completed and that no depreciation for uncompleted projects will be included. Mr. Malan testified that the similar treatment for PILOT also ensures that customers are not paying expenses for capital improvements that have not been completed.

With respect to debt service and debt service reserve, Mr. Malan testified that the parties agree that Cedar Lake should be authorized to issue bonds up to \$3,915,000 at an interest rate not to exceed 5%. The parties further agreed that the annual debt service requirement should be \$417,148, consisting of \$324,612 of current debt service and \$92,536 of debt service on the new debt issuance. Lastly, the parties agreed to a debt service reserve amount of \$19,753, which does not include any prefunding of the debt service reserve account with eastside territory SDC funds as the OUCC had proposed. Rather, those funds would remain available for appropriate eastside SDC costs.

Mr. Malan's testimony confirmed Ms. Haase's description of the parties' agreement regarding tank painting and maintenance. He stated that the agreed provisions protect the public's interest by ensuring Cedar Lake's assets are maintained and that funds are available to complete needed tank maintenance.

Mr. Malan testified that Cedar Lake will file an SDC case with the Commission on or before September 1, 2021, seeking approval for an eastside territory SDC. Until the Future SDC case is filed, Cedar Lake will deposit all SDCs collected from its eastside territory into a restricted account that may only be used for construction costs on utility projects for eastside operations, subject to the Commission's order in the Future SDC case. Mr. Malan stated that this provision protects the new and existing customers in Cedar Lake's eastside district from being overcharged for water services and that the Future SDC case will ensure that Cedar Lake's eastside district customers pay a fair and just amount to connect to the system.

Mr. Malan testified that the parties agreed that within 30 days of the closing on the issuance of debt, Cedar Lake will file a true-up report to reflect the actual cost of the debt. He stated that the parties agreed to single-tariff pricing for all customers with regard to metered water rates and minimum charges that produce an overall 15% increase in operating revenues. He explained that Cedar Lake currently has charges for three separate areas and customers are charged one of three different rates. The Settlement will eliminate any confusion arising from different rates being charged to customers of the same utility. Further, single-tariff pricing for metered water rates and minimum charges will ensure that each customer pays a fair and equitable portion of the utility's expenses.

Finally, Mr. Malan testified that the settlement is in the public interest because it is a reasonable compromise between the positions of the OUCC and Cedar Lake. He stated that the Settlement addresses the issues of rate design, debt issuance, and SDCs without the need for litigation, reducing costs for Cedar Lake. The Settlement also provides certainty for Cedar Lake's ability to raise sufficient revenue to pay all lawful expenses incident to the operation of the utility,

and ratepayers will receive the benefit of lower than requested rates. Mr. Malan recommended that the Settlement be approved.

**5. Commission Discussion and Findings.** As the Commission has previously discussed, settlements presented to the Commission are not ordinary contracts between private parties. *U.S. Gypsum, Inc. v. Ind. 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 Coal. of Ind., Inc. v. PSI Energy, Inc.*, 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 Coal.*, 664 N.E.2d at 406.

Further, any Commission decision, ruling, or order, including the approval of a settlement, must be supported by specific findings of fact and sufficient evidence. *U.S. Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coal. v. Public Serv. Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission’s procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Before we can approve the Settlement in this Cause, 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 ch. 8-1-2 and that the Settlement serves the public interest. When making this determination, the Commission strives to advance the public interest by ensuring reliable service at reasonable rates as opposed to inter-party tranquility by accepting parties’ settlements without scrutiny; consequently, it is imperative the Commission be provided with substantive evidentiary support for settlements.

The Commission has before it substantial evidence from which to determine the reasonableness of the Settlement’s terms, including the parties’ agreement on Cedar Lake’s revenue requirement, rates and charges, O&M expense adjustments, depreciation expense, PILOT, and financing request. The agreed pro forma adjustments and revenue requirement are also supported by the schedules and appendices attached to the parties’ testimony. Specifically, in this case, we have evidence demonstrating the progression of the discussion of issues between Cedar Lake and the OUCC, ultimately clarifying the proper accounting treatment of several issues and resulting in the terms included in the Settlement. Consequently, we have substantive information from which to discern the basis for the components of the increase in Cedar Lake’s base rates and charges under the Settlement and find the evidence supports that they are reasonable. Similarly, we have substantive information from which to discern the basis for approval of Cedar Lake’s request to issue long-term debt and of the options for and limitations on such debt and find the evidence supports that it is reasonable.

**A. O&M Expense Adjustments.** The parties disagreed regarding the allocation of wages and salary expenses for certain Town Employees and the Town Council. In the Settlement, the parties agreed to allocate 17.8% of the Town Council’s time and 18% of the Chief Deputy Clerk Treasurer’s time to the water utility. In rebuttal testimony, Mr. Niemeyer provided a detailed list of duties that the Town Council undertakes as part of its oversight and management of the utility and Ms. Haase provided a similar list for the Deputy Clerk Treasurer. We find that this evidence supports the agreed allocations in the Settlement.

The OUCC also made certain adjustments for legal services and engineering services as well as removing out-of-period expenses and adjusting periodic maintenance expense. Mr. Malan testified regarding the reasons for his adjustments. Ms. Haase testified that although Cedar Lake does not agree with the OUCC's adjustments, the parties agreed to include the adjustments in the Settlement as a compromise. We find that the evidence supports the OUCC's adjustments and that the terms of the Settlement are a reasonable compromise.

**B. Depreciation Expense and PILOT.** The parties agreed that Cedar Lake's depreciation expense shall be \$200,629 and PILOT expense of \$42,756. Ms. Haase and Mr. Malan explained the process for arriving at the amounts by averaging one year of depreciation/PILOT prior to the completion of the capital projects to be funded by the bonds and 4 years of depreciation/PILOT after the projects are completed. As Mr. Malan testified, normally the Commission would account for future construction projects with a multi-phase rate increase. However, Ms. Haase testified that due to the close timing of the Commission's Final Order, Cedar Lake issuing debt, and construction starting on the projects, it is conceivable that Cedar Lake's customers could experience three different bills in three consecutive months if a phased rate increase was implemented. We further note these increases will be different for eastside and westside customers in order to achieve single tariff rates. In addition, as Ms. Haase and Mr. Malan testified, the Settlement includes a provision to reduce Cedar Lake's depreciation expense and PILOT expense if the proposed capital projects are not completed by December 31, 2022. More specifically, if Cedar Lake has not completed the capital improvements necessary to justify the agreed upon increase to depreciation expense by that date, Cedar Lake must decrease its rates to reflect a lower amount for depreciation based on the cost of the capital improvements that were actually completed.

Based on this process, and the parties' testimony on this issue, we find that the treatment of Depreciation Expense and PILOT expense set forth in the Settlement is reasonable. We also adopt the certification proposal included in the Settlement. No later than 30 days after December 31, 2022, Cedar Lake shall file a report in this Cause either (1) certifying the completion of all proposed capital projects and that the agreed-upon depreciation expense and PILOT expense are accurate; or (2) setting forth an itemized list of capital projects actually completed as of December 31, 2022, with accompanying schedules detailing the associated adjustments to depreciation expense and PILOT expense and an amended tariff, including rates based on the reduced depreciation and PILOT expenses.

**C. Tank Painting and Maintenance.** Cedar Lake's case indicated that Cedar Lake intends to enter into a service agreement for tank painting maintenance with Suez. According to the Settlement, when Cedar Lake enters into the agreement, it shall provide a copy of the agreement to the OUCC and the Commission. In the event that Cedar Lake does not enter into the agreement within 60 days after the date of this Final Order, the parties agreed that Cedar Lake shall place \$83,455 each year during the life of the rates approved in this Order into a restricted account to be used only for tank painting or tank maintenance expense. We find that the Settlement terms ensure that the funds allocated in Cedar Lake's revenue requirement for tank painting and maintenance are used for that purpose, either because Cedar Lake has contracted for the services to be provided or because Cedar Lake will have the necessary funds to complete the maintenance



in a restricted account. Based on the foregoing, we find that the Settlement terms related to tank painting and maintenance are reasonable.

**D. Revenue Requirement, Rates, and Charges.** The parties agreed that Cedar Lake should be authorized to increase its rates and charges for water service to reflect an overall pro forma net revenue requirement of \$1,473,075, which is an annual increase of \$192,499, or 15%, over Cedar Lake's current revenues at existing rates. As shown by the testimony discussed above, the parties engaged in extensive discussion and exchanges of information to determine an appropriate revenue requirement. In addition, the parties agreed to a single-phase rate increase. As a compromise between Cedar Lake's requested immediate single-phase increase and the OUCC's proposed two-phase increase to better align the debt service expenses with the issuance of Cedar Lake's debt, the parties agreed that Cedar Lake shall implement its rate increase no sooner than 60 days prior to the anticipated date for closing on the bonds and that the rates will be subject to true up following the closing to reflect the actual terms and conditions of the bonds. The Settlement, thus, ensures that Cedar Lake has sufficient revenues to operate the utility and qualify for favorable interest rates while protecting rate payers from paying for debt service on bonds that Cedar Lake has not yet issued. We find that this approach is reasonable, and we approve the revenue requirement and rates set forth in the Settlement and summarized in the table below:

Operating Expenses	\$ 757,015
Payment in Lieu of Property Taxes	42,756
Taxes Other Than Income	45,994
Depreciation Expense	200,629
Debt Service – Current Debt	324,612
Debt Service – Proposed Debt	92,536
Debt Service Reserve	<u>19,753</u>
Total Revenue Requirements	1,483,295
Less: Revenue Requirement Offsets	
Other Income	<u>(10,220)</u>
Net Revenue Requirements	1,473,075
Less: Revenues at Current Rates Subject to Increase	<u>(1,283,271)</u>
Net Revenue Increase Required	\$ 189,804
Divide by Revenue Conversion Factor (100%-1.4%)	<u>0.986</u>
Recommended Increase	<u>\$ 192,499</u>
Calculated Percentage Increase	<u>5.00%</u>

**E. Long-Term Debt Authority.** The parties agreed that Cedar Lake should be authorized to issue long-term debt (i.e. bonds) in a maximum amount of \$3,915,000 at an interest rate not to exceed 5%. Ms. Haase and Mr. Niemeyer testified that due to the COVID-19 pandemic the bond market has changed substantially throughout the course of this case and that at various times better terms were available in the open market or from the SRF. Mr. Niemeyer testified that Cedar Lake has watched, and will continue to watch, the bond market to ensure it issues its bonds at the best possible terms and the least cost to the utility’s customers. Ms. Haase also testified that the Settlement provides Cedar Lake with flexibility to issue debt through SRF or on the open market, depending on which avenue offers the lowest cost for its customers. She also stated that the terms of the Settlement result in a debt service coverage of 1.61, which meets the minimum threshold for SRF funding. We find that the terms of the Settlement are designed to allow Cedar Lake to obtain the necessary funds to complete necessary capital projects at the best possible terms, whether through the SRF or on the open market. Combined with the true-up and reporting requirements discussed below, we find that the Settlement terms are reasonable and we authorize Cedar Lake to issue long-term debt (i.e. bonds) in a maximum amount of \$3,915,000 at an interest rate not to exceed 5%.

**F. Long-Term Debt True-Up Report.** The parties agreed that within 30 days after Cedar Lake closes on the debt issuance, Cedar Lake shall file a true-up report describing the final terms of the bonds, the amount of debt service reserve, and the amortization schedule for the bonds. The OUCC shall have 14 calendar days from the filing of the true-up report to object to the report. If there is no objection but the annual debt service differs from the \$417,148 amount included in rates, then Cedar Lake shall file a revised tariff adjusting its rates to include the actual

annual principal and interest due on the bonds with the following provisions. If the actual terms of the financing are such that the debt service is less than \$417,148 per year, then Cedar Lake need not file a revised tariff if Cedar Lake and the OUCC agree the difference is immaterial for purposes of determining whether Cedar Lake's rates should be revised. In that case, the parties will file a notice of consensus in this Cause, including a written statement to that effect from the OUCC. On the other hand, if the debt service is more than \$417,148 per year, then Cedar Lake may, in its sole discretion, elect to not file a revised tariff with higher rates.

Because Cedar Lake's rate increase, including the estimated debt service reserve will be implemented no more than 60 days prior to its closing on the debt issuance, the true-up process contained in the Settlement is crucial to ensuring that Cedar Lake's customers do not overpay for debt service in the event that Cedar Lake's actual debt service is lower than estimated in its rates. Therefore, we find that the true-up process is reasonable, and we adopt the process in this Order. Cedar Lake shall file its true-up report as set forth above within 30 days of closing on its long-term debt.

**G. System Development Charges.** Cedar Lake's eastside and westside districts are not interconnected and currently have different SDCs. Cedar Lake's eastside district SDC was recently approved in Cause No. 45180. In its case-in-chief, the OUCC express disagreement with Cedar Lake's use of funds from the eastside district to pay for growth related projects in the westside district. Based on this and its concerns about double funding proposed projects through the SDCs and Cedar Lake's proposed borrowing, the OUCC recommended the Commission required Cedar Lake to file a new case to justify and amend its eastside SDC.

In the Settlement, the parties agreed that on or before September 1, 2021, Cedar Lake shall file a new case requesting approval of an SDC for the eastside district. Until this SDC case is filed, Cedar Lake agreed to place any SDCs collected from the eastside district into a restricted account to be used only for construction costs on utility projects for eastside district operations, subject to the Commission's order in the future SDC case. In testimony supporting of the Settlement, Ms. Haase testified that Cedar Lake intends to propose a single SDC for both districts in the new case, and Mr. Simstad testified that within the next 10 years, Cedar Lake plans to construct an interconnection between the two systems.

Based on these facts, we agree with the parties that the issues regarding Cedar Lake's SDC should be addressed in a new case where the parties can present detailed testimony and proposals for a new eastside district SDC or a unified SDC for Cedar Lake's entire system as indicated by Ms. Haase. We find the Settlement's treatment of the SDC to be reasonable, and we order Cedar Lake to file a new case for approval of an SDC for the eastside district, or a unified SDC, on or before September 1, 2021.

**6. Conclusion.** The testimony in this case provides substantive support demonstrating why the Settlement Agreement is reasonable and in the public interest. Based on our review of the testimony and the other evidence in the record, including the Settlement, we find the Settlement is within the range of outcomes presented and represents a reasonable resolution of the issues. Therefore, we approve the Settlement in its entirety.

7. **Effect of Settlement Agreement.** Consistent with the terms of the Settlement, the Settlement 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, we find that our approval should be treated in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, 1997 WL 24880849 at 7-8 (IURC Mar. 19, 1997).

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

1. The Joint Stipulations and Settlement Agreement, a copy of which is attached to this Order, is approved in its entirety.

2. Subject to the true-up and reporting processes set forth in the Settlement, Cedar Lake is authorized to adjust and increase its base rates and charges for water utility service to produce an increase in total operating revenues of \$192,499, or 15%, in accordance with the findings above, which rates and charges shall be designed to produce total annual operating revenues of up to \$1,473,075.

3. Prior to implementing the authorized rates, Cedar Lake shall file new schedules of rates and charges for approval by the Water/Wastewater Division of the Commission. As set forth in Paragraph 3 of the Settlement, Cedar Lake may not implement the authorized rates until within 60 days of the anticipated date for closing on its authorized long-term debt.

4. Subject to the true-up and reporting processes set forth in the Settlement, Cedar Lake is authorized to issue long-term debt on the open market or through the SRF in an amount not to exceed \$3,915,000 at an interest rate not to exceed 5%.

5. As set forth in Paragraph 10 of the Settlement and pursuant to our findings in Paragraph 5.F. above, within 30 days after closing on the issuance of debt, Cedar Lake shall file in this Cause a true-up report describing the final terms of the bonds, the amount of debt service, and the amortization of schedule for the bonds.

6. As set forth in Paragraphs 5 and 6 of the Settlement and pursuant to our findings in Paragraph 5.B. above, no later than 30 days after December 31, 2022, Cedar Lake shall file a report in this Cause certifying the completion of all proposed capital projects. If Cedar Lake has not completed the capital projects necessary to justify the agreed-upon increase to depreciation expense and PILOT expense by December 31, 2022, then Cedar Lake shall decrease its rates to reflect the lower amounts of depreciation expense and PILOT based on the cost of the capital projects actually completed. In such case, Cedar Lake shall submit a list of the capital projects actually completed as of December 31, 2022, with accompanying schedules detailing the associated adjustments to depreciation expense and PILOT expense and an amended tariff, including rates based on the reduced depreciation and PILOT expenses.

7. As set forth in Paragraph 7 of the Settlement and pursuant to our findings in Paragraph 5.C. above, Cedar Lake shall file an executed copy of its tank painting and maintenance

agreement with Suez or, if it fails to enter into an agreement within 60 days of the date of this Order, Cedar Lake shall begin placing \$83,455 per year into a restricted account to be used only for tank painting and tank maintenance expenses.

8. As set forth in Paragraph 8 of the Settlement and pursuant to our findings in Paragraph 5.G. above, on or before September 1, 2021, Cedar Lake shall file a new case with the Commission requesting approval of a system development charge for its eastside district or a single system development charge for its entire service area. Until such time as the new SDC case is filed, Cedar Lake shall place any SDCs collected from its eastside district into a restricted account to be used only for utility projects for eastside district operations.

9. 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 of the Commission**