

OFFICIAL
EXHIBITS

BEFORE THE

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF CWA AUTHORITY INC. FOR)
APPROVAL PURSUANT TO INDIANA CODE 8-1-)
31.5-13 TO CHANGE THE AMOUNT OF ITS SYSTEM) CAUSE NO. 44990 SIA 2
INTEGRITY ADJUSTMENT AND IMPLEMENT A)
SCHEDULE OF RATES AND CHARGES)
APPLICABLE THERETO)

IURC
PETITIONER'S
EXHIBIT NO. 11-26-18 1-R
DATE REPORTER AT

VERIFIED REBUTTAL TESTIMONY
of
DEBARATI (DEBI) BARDHAN

On
Behalf of
Petitioner,
CWA Authority, Inc.

1 **INTRODUCTION AND BACKGROUND**

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

3 A. My name is Debarati (Debi) Bardhan. My business address is 2020 N. Meridian
4 Street, Indianapolis, Indiana, 46202.

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

6 A. I am employed by the Board of Directors for Utilities of the Department of Public
7 Utilities of the City of Indianapolis, which does business as Citizens Energy
8 Group. Citizens Energy Group ("Citizens") is affiliated with CWA Authority,
9 Inc. ("CWA"), which owns the wastewater utility that provides wastewater
10 collection and treatment utility services in Indianapolis and wastewater treatment
11 services to surrounding communities. Pursuant to a Management and Operating
12 Agreement approved by this Commission in Cause No. 43936, Citizens provides
13 management and operational services necessary and desirable for the operation of
14 the wastewater utility owned by CWA. CWA is the Petitioner in this proceeding
15 and is referred to interchangeably in my testimony as "CWA" and "Petitioner." I
16 serve as Director, Regulatory Affairs.

17 **Q. ARE YOU THE SAME DEBARATI (DEBI) BARDHAN THAT**
18 **PREVIOUSLY TESTIFIED IN THIS PROCEEDING?**

19 A. Yes, I am.

20 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY AT THIS STAGE OF**
21 **THE PROCEEDING?**

22 A. My testimony responds to the Office of Utility Consumer Counselor's ("OUCC")
23 objections to Petitioner's proposed calculation of the System Integrity Adjustment

1 (“SIA 2”). In particular, I address the OUCC’s assertion that “CWA’s calculation
2 includes several material omissions,”¹ including with respect to a system integrity
3 collar, cumulative calculations, and reconciliations. In so doing, I explain that the
4 OUCC’s assertions are based upon a misinterpretation of the SIA statute, which
5 results in an incorrect SIA 2 calculation on their part and other consequences that
6 were never intended and are not supported by the statute. Failure to address any
7 aspect of the OUCC’s testimony in general does not constitute my agreement with
8 such aspects.

9 **SYSTEM INTEGRITY ADJUSTMENT**

10 **Q. HOW DO YOU RESPOND TO THE OUCC’S UNDERSTANDING OF**
11 **HOW THE CHANGE IN A SYSTEM INTEGRITY ADJUSTMENT**
12 **AMOUNT IS TO BE DETERMINED UNDER IC 8-1-31.5-13?**

13 A. In this proceeding, CWA is seeking approval pursuant to IC 8-1-31.5-13
14 (“Section 13”) of a change in its adjustment amount, which was initially approved
15 by the Commission in a prior proceeding pursuant to IC 8-1-31.5-12 (“Section
16 12”). The OUCC has confused and conflated the requirements of Section 12 and
17 Section 13. The OUCC’s calculation of the change to CWA’s adjustment amount
18 indicates a misreading of the System Integrity Adjustment (“SIA”) statute (IC 8-
19 1-31.5-1 et seq.). While the OUCC accurately quotes certain provisions of the
20 SIA statute, it misinterprets critical provisions and construes them in a way to
21 impose the requirements of a proceeding under Section 12 on a proceeding under

¹ Stull Direct Testimony, page 5, line 18.

1 Section 13, which results in calculation requirements that are not supported by a
2 plain reading of the statute and are not applicable to this proceeding. The end
3 result is an erroneous calculation of the change to CWA's adjustment amount that
4 serves to undermine the intended purpose of the statute. If the requirements for
5 an eligible utility seeking approval under Section 13 for a "change in its
6 adjustment amount" were intended to be the same as the requirements for the
7 approval of an initial adjustment amount under Section 12, there would be no
8 need for Section 13.

9 **Q. WHAT ADDITIONAL CALCULATION REQUIREMENTS DOES THE**
10 **OUCC SEEK TO IMPOSE ON PETITIONER'S PROPOSED CHANGE IN**
11 **ITS ADJUSTMENT AMOUNT FILED UNDER SECTION 13?**

12 A. The OUCC claims that the proposed change in Petitioner's adjustment amount
13 should have included: (1) an offset for a system integrity collar as that term is
14 defined by IC 8-1-31.5-10 ("Section 10") of the SIA statute; (2) the use of
15 cumulative actual and authorized revenues; and (3) a reconciliation adjustment.
16 The first two items are not applicable to petitions filed under Section 13 in
17 general, and the third item is not applicable to the Petition filed in this particular
18 proceeding.

19 The calculation methodology that the OUCC is proposing results in an
20 SIA 2 Rate that is not only lower than the Petitioner's proposed rate by greater
21 than 50% (54% to be exact) but is also 21% lower than the existing Commission
22 approved SIA 1 Rate (effective January 1, 2018). This is an illogical result.

Accordingly, I will address and refute each of the additional calculation requirements that the OUCC seeks to impose.

SYSTEM INTEGRITY COLLAR

Q. WHY IS THE OUCC'S INTERPRETATION OF THE SYSTEM INTEGRITY COLLAR INCORRECT UNDER SECTION 13?

A. The OUCC has made several mistakes in its understanding and interpretation of the system integrity collar in the SIA statute. The OUCC relies exclusively on the definition of "system integrity collar" found in Section 10 and the definition of "cumulative excess or deficit" found in IC 8-1-31.5-6 ("Section 6") in support of its position. Section 13 does not include or refer to either Section 10 or Section 6. Any attempt by the OUCC to establish connections between these unrelated provisions of the statute is incorrect.

Notably, both the terms "system integrity collar" and "cumulative excess or deficit" as defined in Sections 10 and 6 respectively are referenced in Sections 12 and 14. Again, neither term is referenced in Section 13. Section 10 provides, in relevant part, "an eligible utility's system integrity collar is satisfied when the eligible utility's cumulative excess or deficit equals or exceeds the eligible utility's system integrity collar." (emphasis added).

Section 12(a), which applies to an eligible utility's initial SIA filing, provides, in relevant part,

An eligible utility that is not collecting a system integrity adjustment may file with the commission a petition setting forth rate schedules that establish a system integrity adjustment to recover from or credit to customers the eligible utility's adjustment amount. The petitioner must

1 establish that the eligible utility's system integrity collar
2 has been satisfied on a cumulative basis following the
3 effective date of the commission's order in the eligible
4 utility's most recent general rate case. The eligible utility's
5 system integrity collar may not be included in the
6 calculation of its adjustment amount." (emphasis added).
7

8 Further, Section 14 provides, "For purposes of satisfying a system
9 integrity collar, an eligible utility's cumulative excess or deficit shall be reset to
10 zero (0) upon the effective date of the commission's order in the eligible utility's
11 next general rate case proceeding after the commission approves a system
12 integrity adjustment." (emphasis added)

13 The above provisions, when read together, make clear that the system
14 integrity collar is a prerequisite to filing an initial petition under Section 12 that is
15 satisfied when an eligible utility's cumulative excess or deficit equals or exceeds
16 the eligible utility's system integrity collar. Once the eligible utility has satisfied
17 that prerequisite, the revenue recovery process may be initiated under Section 12.
18 In other words, this one-time qualifier enables an eligible utility to file for a
19 system integrity adjustment under Section 12. In its initial petition in Cause No.
20 44990, Petitioner successfully established that its system integrity collar had been
21 satisfied and also subtracted a 2% system integrity collar from its system integrity
22 adjustment amount as directed in Section 12(a). On December 28, 2017, the
23 Commission issued an Order approving Petitioner's initial petition.

24 Under the terms of Section 12, the first filing is discretionary and its
25 timing the decision of the eligible utility. Once the Commission has issued an
26 order approving an initial petition for a system integrity adjustment, the eligible

1 utility has statutory obligations to make subsequent filings pursuant to Section 13
2 to change its adjustment amount. Sections 13(a) and (b), provide in relevant part,
3 “This section applies to an eligible utility for which the commission has issued an
4 order approving a petition under Section 12(d) of this chapter...An eligible utility
5 shall file a petition for a change in its adjustment amount....” Importantly,
6 Section 13 makes no mention of a system integrity collar for petitions filed under
7 that section. Rather, these filings are mandatory, already set in motion with the
8 first SIA filing and hence do not require additional qualifiers or prerequisites.
9 The filing in question, SIA 2, is such a filing.

10 **Q. PLEASE EXPLAIN FURTHER HOW THE OUCC’S INTERPRETATION**
11 **OF SECTION 13 UNDERMINES THE INTENT OF THE SIA STATUTE?**

12 A. The goal of the SIA statute is for utilities to recover Commission approved
13 authorized revenue, not more or less, and is intended to be a “two-way street.”
14 For utilities that are in an under-recovery situation, such as Petitioner, the SIA
15 statute helps avoid: (i) incurring additional debt to make planned investments; (ii)
16 reducing planned investments; or (iii) filing a rate case prematurely. For utilities
17 that are in an over-recovery situation, the SIA provides for customer refunds.
18 However, by suggesting that the system integrity collar should be included in
19 petitions filed under Section 13 in the absence of any express language to that
20 effect, the OUCC would have those utilities already in an under-recovery situation
21 to continue to collect even less than they otherwise should under the statute.
22 Similarly, for utilities in an over-recovery situation, the OUCC’s proposal would
23 have them refund to customers less than they otherwise would have as

contemplated in Section 13 of the statute. The following table uses an example of an over-recovery situation to further illustrate the impact the calculation and subtraction of a system integrity collar would have if incorrectly used to calculate a change in an adjustment amount under Section 13.

SYSTEM INTEGRITY CALCULATION	OUCC METHOD	PETITIONER METHOD
	1	2
Authorized Revenues from Cause No. 44685	\$278,987,725	\$278,987,725
Actual Revenues	\$288,402,786	\$288,402,786
Cumulative Deficit/(Excess)	(\$9,415,061)	
One-Time System Integrity Collar (2%)	\$5,579,755	
Adjustment Amount	(\$3,835,307)	(\$9,415,061)
System Integrity Adjustment (94%)	(\$3,605,188)	(\$9,415,061)
Budgeted Non-Industrial Volumes (1000 gallons)	22,303,786	22,303,786
SIA Rate/1000 gallons, \$	-0.1616	-0.3968

(~~\$ 8,850,151~~)
DB.

As illustrated above, the SIA Rate/1000 gallons in Column 1 are calculated as interpreted by the OUCC while the SIA Rate/1000 gallons in Column 2 are calculated per the Petitioner's understanding and interpretation of the statute. Column 1 results in a system integrity adjustment refund to customers that is 59 percent less than the proper calculation in Column 2.

This example illustrates how the improper calculation and subtraction of the system integrity collar in a Section 13 proceeding restricts and reduces dollars to be refunded to customers at a time when an eligible utility has over-collected

its authorized revenues. The OUCC's misinterpretation of Section 13 undermines both the infrastructure and affordability concerns the statute was intended to address.²

CUMULATIVE (EXCESS) DEFICIT AND RESULTING REVENUES

Q. WHY IS THE OUCC'S APPLICATION OF THE "CUMULATIVE EXCESS OR DEFICIT" CONCEPT TO DETERMINE ACTUAL REVENUES AND AUTHORIZED REVENUES IN THIS SECTION 13 PROCEEDING INCORRECT?

A. The SIA statute's definitions of both "actual revenues" and the "authorized revenues" are confined to a twelve month period (see IC 8-1-31.5-2 and 8-1-31.5-5). In addition, the "adjustment amount" (see IC 8-1-31.5-3) – which is the only definition in Chapter 31.5 specifically called out to be used in both a Section 12 and a Section 13 petition and represents the calculation to be used to calculate the "system integrity adjustment" – utilizes those two definitions (each confined to a twelve-month period) to determine the "adjustment amount" in a Section 12 filing, as well as a Section 13 filing. The OUCC's use of actual revenues and authorized revenues over an extended period of time beyond twelve months is contrary to the plain language of the SIA statute.

² SECTION 1. IC 8-1-2-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 0.5. The general assembly declares that it is the continuing policy of the state, in cooperation with local governments and other concerned public and private organizations to use all practicable means and measures, including financial and technical assistance, in a manner calculated to create and maintain conditions under which utilities plan for and invest in infrastructure necessary for operation and maintenance while protecting the affordability of utility services for present and future generations of Indiana citizens.

1 In addition, the term “cumulative excess or deficit” (the only term in
2 Chapter 31.5 measured on a cumulative annual basis from the effective date of the
3 commission’s order in the eligible utility’s most recent general rate case
4 proceeding) notably is used in only three sections of the statute: (1) when the term
5 itself is defined in Section 6; (2) when it is used to define the “system integrity
6 collar” in Section 10; and (3) when it is reset to zero for purposes of satisfying a
7 system integrity collar in Section 14. Nowhere in the SIA statute is the term
8 “cumulative excess or deficit” used in conjunction with “actual revenues” or
9 “authorized revenues” to determine the “adjustment amount,” as was done by the
10 OUCC in determining its proposed adjustment amount. Therefore, the OUCC has
11 used the term “cumulative excess or deficit” in a manner that is contrary to the
12 plain language of the statute.

13 Making the same error it made with respect to the system integrity collar,
14 the OUCC has read a requirement regarding the use of cumulative actual and
15 authorized revenues into petitions filed under Section 13 that simply is not there.
16 The OUCC’s error resulted in erroneous authorized and actual revenue
17 calculations extending over multiple 12-month periods, instead of a 12-month
18 period as indicated in the statute.

1 RECONCILIATION

2 Q. HOW DO YOU RESPOND TO THE OUCC'S RECOMMENDATION
3 REGARDING THE INCLUSION OF A RECONCILIATION
4 ADJUSTMENT AS A PART OF THE SIA CALCULATION IN THIS
5 PROCEEDING?

6 A. The OUCC's proposal that a reconciliation should occur in this proceeding even
7 though adjustment revenues have been collected for less than a full 12-month
8 period is fundamentally flawed and hence should be rejected. The OUCC's
9 position is contrary to the SIA statute and the Commission's Order in Cause No.
10 44990. Pursuant to IC 8-1-31.5-15 ("Section 15"), an eligible utility must
11 reconcile the difference between the adjustment amount approved by the
12 Commission for a previous 12-month period and the adjustment revenues
13 received during the same 12-month period. In CWA's first SIA filing, the
14 approved adjustment amount (^{\$6,139,673}~~\$6,531,567~~) became effective January 1, 2018 and ^{DB.}
15 will remain in effect for a 12-month period ending December 31, 2018. Once the
16 12-month period is complete, the approved adjustment amount will be eligible to
17 be reconciled against adjustment revenues received during that same 12-month
18 period (January 1, 2018 thru December 31, 2018). This aligns with the
19 reconciliation directive in the statute.

20 In addition, this approach is consistent with the December 28, 2017 Order
21 in Cause No. 44990, which in ordering paragraph 4 states: "to the extent an SIA is
22 in effect for CWA for a 12-month period, CWA shall include the reconciliation of
23 adjustment amounts and adjustment revenues required by Ind. Code § 8-1-31.5-15

1 in each petition filed under Ind. Code § 8-1-31.5-13.” (emphasis added). At this
2 time, CWA does not have an SIA that has been in effect for a 12-month period;
3 therefore, its first reconciliation cannot happen with this filing and will occur only
4 in its next SIA filing – SIA3.

5 The OUCC’s own testimony points out the flaw in its reconciliation
6 proposal, stating “[a]lthough the initial system integrity adjustment was
7 implemented on January 1, 2018; the reconciliation adjustment in this case would
8 reconcile the revenues authorized and collected during the period August 1, 2017
9 through July 31, 2018.”³ In short, the OUCC’s proposed reconciliation
10 mechanism is flawed because, contrary to the statute, the OUCC is attempting to
11 make a reconciliation with less than 12-months of adjustment revenues received
12 and for differing 12-month periods.

13 **Q. IS THE OUCC’S ALTERNATIVE RECOMMENDATION THAT A**
14 **RECONCILIATION OF SIA 1 REVENUES COULD BE FILED IN**
15 **FEBRUARY 2019 ACCEPTABLE?**

16 A. No. The OUCC’s alternative proposal is unacceptable because it is also contrary
17 to the express directives of the SIA statute. The SIA statute is clear that
18 reconciliations under Section 15 are to occur at the same time an eligible utility
19 files a petition under Section 13. As indicated in my direct testimony, Petitioner’s
20 first reconciliation will occur in its next filing under Section 13, SIA-3. The
21 OUCC’s proposal would have Petitioner make a reconciliation filing in advance

³ Stull Direct Testimony, Page 10, Lines 5-8.

1 of its SIA-3 filing. In addition to being contrary to the statute, such an additional
2 proceeding would result in unnecessary administrative burdens and processes to
3 CWA, the OUCC, and the Commission, contributing to additional costs while
4 providing no appreciable benefit. Because this alternative proposal is contrary to
5 the statute and would result in increased filings with little benefit, it should be
6 rejected.

7 **CONCLUSION**

8 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

9 **A.** The OUCC'S proposed SIA should be rejected because it is based upon a flawed
10 calculation methodology that is not supported by the SIA statute or the objectives
11 behind it. It seeks to impose the Section 12 requirements of a system integrity
12 collar and cumulative excess or deficit on this Section 13 proceeding despite the
13 differences of the two proceedings outlined in the SIA statute. It also seeks to
14 impose a reconciliation adjustment even though Petitioner's prior adjustment
15 amount is not eligible to be reconciled at this time in accordance with the SIA
16 statute, and Petitioner will reconcile that amount when it is eligible to do so in a
17 subsequent Section 13 proceeding. The result in this proceeding, which will
18 have a precedential impact on future Section 13 proceedings, is a proposed SIA 2
19 Rate that will keep Petitioner from recovering more of its authorized revenue
20 requirement, making less revenues available for investment in Eligible
21 Infrastructure Improvements. Further, for eligible utilities that are over-
22 recovering their authorized revenues, the OUCC's proposed methodology, if
23 adopted, would lessen the potential adjustment amounts refunded to customers.

1 Based on the foregoing, Petitioner respectfully requests that the
2 Commission: (1) reject the OUCCs proposed SIA 2 Rate and the methodology
3 used to calculate that amount, which imposes Section 12 requirements in a
4 Section 13 proceeding; and (2) approve Petitioner's proposed SIA 2 Rate, which
5 is based upon the actual requirements contained in Section 13.

6 **Q. DOES THAT CONCLUDE YOUR REBUTTAL TESTIMONY IN THIS**
7 **PROCEEDING?**

8 **A. Yes it does.**

VERIFICATION

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


Debarati (Debi) Bardhan