

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF SWITZERLAND COUNTY )  
NATURAL GAS COMPANY, INC. FOR )  
AUTHORITY TO CHANGE ITS RATES, ) CAUSE NO. 45117  
CHARGES, TARIFFS, RULES, AND )  
REGULATIONS )

**PETITIONER'S RESPONSE TO THE OUCC'S**  
**MOTION FOR RECONSIDERATION**

The OUCC's Motion for Reconsideration filed May 2, 2019 is a veiled attempt to obtain what it could not obtain through its litigated proposal to restate Petitioner's capital structure. The Motion's suggested calculations rely on a misplaced theory that the capital structure of a regulated utility must match the original cost rate base of such regulated utility. Ironically, this alleged mismatch was not of concern to the OUCC in the recently settled case of Indiana Utilities Corporation, Inc. Cause No. 45116. There, the Commission found it reasonable to recognize Indiana Utilities capital structure of \$12,511,682 and an original cost rate base of the same date of \$7,471,437. While that Indiana Utilities case was a settled case, Switzerland County Natural Gas Company, Inc. (Switzco) must wonder why a mismatch was reasonable in that recent case, but is not reasonable in Switzco's case.

This Commission will note that this is not the first time the OUCC has proposed its theory on mismatching capital structure and rate base. In fact, the OUCC actively litigated this issue in Boonville Natural Gas Corporation, Cause No. 43342. In that prior Boonville proceeding, the OUCC proposed alternative restatements of Boonville's capital structure suggesting removal of deferred income tax from the capital structure to avoid dilution; or reducing the equity by retained earnings which had been invested in an investment account with a national stock brokerage firm to avoid a mismatching of capital structure and rate base. The

Commission's Order of August 27, 2008 in that Cause specifically pointed to the evidence from witness Duane Mercer of London Witte Group (now LWG CPAs and Advisors) which indicated that most natural gas utilities which had been before the Commission on rate cases used capital structures that did not match the original cost rate base. The Commission was clearly not persuaded by the OUCC's theory on mismatching, and ultimately rejected the OUCC's alternatives, finding that the OUCC's approach was attempting to create a hypothetical capital structure (Order at page 15). Unlike the Boonville base rate case, where the alternative calculations of the capital structure were actually litigated; here the OUCC proposes to offer an alternative through a Motion filed after the Commission rejected its litigated position. This is an inappropriate means to reduce Petitioner's authorized net operating income.

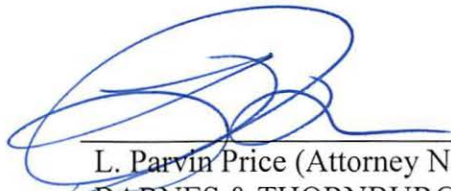
The OUCC spent significant effort during the litigation of this Cause to remind the Commission of Petitioner's size, and criticize the Petitioner's rate case expense. The OUCC's Motion will merely add to that rate case expense.

This Petitioner must wonder if the OUCC considered that the Commission's conclusion relative to reasonable net operating income flowing from the revenue requirement is not a guarantee of actually earning that net operating income. If this issue of no guarantee had been considered, the OUCC would surely have looked at this Petitioner's GCAs to determine if Petitioner had historically earned the net operating income found to be reasonable. As reflected in the most recent GCA completed, Cause No. 37791 GCA 101, the Commission's Order at finding paragraph no. 5 indicates that the Petitioner is not earning a return in excess of the return authorized in its last rate case approved on May 13, 2013. Further inquiry of Petitioner's Operation Income Earnings Test Schedule (sum of the differentials) in that GCA 101 would have shown that this Petitioner has met or exceeded its authorized earnings only 4 times since June of 2013. Such a review should have caused the OUCC to conclude that it is highly unlikely that this Petitioner will actually earn its authorized net operating income once these new rates are used to

bill customers. Thus this Motion For Reconsideration would provide very little benefit to Switzco's 680 customers.

The Petitioner believes that the OUCC's theory on which it bases its Motion is simply wrong. But at a minimum, the OUCC should have litigated this issue before the Commission at the hearing, not through this Motion. Therefore the Petitioner requests that the Commission deny the OUCC's Motion For Reconsideration.

Respectfully submitted,



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## **CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing has been served upon the following  
counsel of record by electronic mail this 9<sup>th</sup> day of May, 2019:

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