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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF FOUNTAINTOWN GAS)
COMPANY, INC. FOR AUTHORITY TO CHANGE)
ITS RATES, CHARGES, TARIFFS, RULES, AND)
REGULATIONS; AND APPROVAL OF AN)
ALTERNATIVE REGULATORY PLAN)
PURSUANT TO INDIANA CODE § 8-1-2.5-6 FOR)
PURPOSES OF IMPLEMENTING AN ENERGY)
EFFICIENCY PROGRAM, ASSOCIATED)
FUNDING AND DECOUPLING MECHANISMS,)
AND CHANGES TO PETITIONER'S)
CALCULATION OF COSTS FOR EXTENSION OF)
DISTRIBUTION MAINS)

CAUSE NO. 44292

APPROVED:

MAY 15 2013

ORDER OF THE COMMISSION

Presiding Officers:

Kari A.E. Bennett, Commissioner

Aaron A. Schmoll, Senior Administrative Law Judge

On January 9, 2013, Fountaintown Gas Company, Inc., ("Petitioner" or "Fountaintown"), filed its Petition with the Indiana Utility Regulatory Commission ("Commission") seeking authority to change its rates, charges, tariffs, rules, and regulations; and approval of alternative regulatory plans to implement the Energy Efficiency Program and accompanying funding and decoupling mechanisms consistent with the Commission's Order in Cause No. 43995 ("Energy Efficiency Proceeding" or "EEP"). Petitioner also requested to change its current calculation used to determine costs to be recovered for the extension of distribution mains from its customers. On January 24, 2013, Petitioner filed its case-in-chief. On February 13, 2013, in lieu of a pre-hearing conference, the Commission convened an attorneys' conference to establish an appropriate procedural schedule in this Cause and determine the status of the parties' discussions in this proceeding. The Office of Utility Consumer Counselor ("OUCC") and Petitioner (collectively, the "Parties") appeared and participated in the attorneys' conference. On February 25, 2013, Petitioner filed certain minor corrections to its pre-filed testimony and exhibits. On February 27, 2013, the Commission issued a docket entry establishing the procedural schedule for this Cause. On February 28, 2013, the Parties filed their Stipulation and Settlement Agreement ("Settlement") and supporting testimony. On March 15, 2013, the Commission issued a Docket Entry regarding the Settlement, to which Petitioner responded on March 19, 2013.

Pursuant to public notice, proofs of publication of which were incorporated by reference into the record and placed in the official files of the Commission, the Commission conducted a public hearing in this Cause on March 20, 2013, at 10:00 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the OUCC appeared and offered into evidence their respective pre-filed testimony and exhibits, which was admitted into the record. No members of the public appeared or sought to testify.

Having considered the evidence of record and the applicable law, the Commission now finds:

1. **Notice and Jurisdiction.** Due, legal, and timely notice of these proceedings was given and published as required by law. Petitioner is a public utility as defined in Ind. Code § 8-1-2-1. Petitioner is also an energy utility as defined in Ind. Code § 8-1-2.5-2. The Commission has authority to approve rates for utility service under Ind. Code §§ 8-1-2-42 and 61, and has authority to approve alternative regulatory plans under Ind. Code § 8-1-2.5-6. Thus the Commission has jurisdiction over the Petitioner and the subject matter of this Cause.

2. **Petitioner's Characteristics.** Petitioner is a public utility organized and existing under the laws of the State of Indiana. Fountaintown Gas Company, Inc. has its principal office at 106 East Main Street, Morristown, Indiana. Petitioner is engaged in rendering natural gas utility service to the public in both rural and municipal areas in Decatur, Hancock, Henry, Rush, and Shelby Counties in Indiana and owns, operates, manages, and controls plant and equipment used for the distribution and furnishing of such services.

3. **Existing Rates, Test Year, and Relief Requested.** Petitioner's current base rates and charges are those established by this Commission on March 17, 2010, under Cause No. 43753-U. Based on the same test year as that prior cause and as authorized by the EEP, Petitioner proposes to adjust its base rates and charges in order to: (1) recover its costs of participation in the EEP; (2) provide initial funding for the annual decoupling filing anticipated; (3) recover the costs of this filing; (4) change its rates to recover the current state and federal income taxes and IURC fees; and (5) further change its rates to flow through these changes in its revenue requirement that impact various taxes, IURC fee, bad debt, and working capital. The result of Petitioner's proposed adjustments would be an increase in its current base rates and charges of approximately 1.22%, excluding the cost of gas, and would increase its authorized revenue by \$25,173, excluding the cost of gas. Petitioner proposes to allocate such increased revenue across the board to all customer classes and their respective current rates and charges. Petitioner also proposes to change its customer classes to accommodate the implementation of the Energy Efficiency Program, implement a different distribution main extension calculation, and make certain other changes in its existing tariffs. Finally, Petitioner proposes to implement the Energy Efficiency Program following the Commission's Order in this Cause.

4. **Evidence of the Parties.**

A. **Petitioner's Case-in-Chief.** Petitioner offered the testimony and exhibits of Duane C. Mercer and Kerry A. Heid. Mr. Mercer, a certified public accountant, explained that while Cause No. 43995 had been settled and anticipated using the base rates for this Petitioner that flowed from its prior base rate case,¹ certain additional adjustments to that prior rate case were required because of issues that were not and could not have been previously considered. Mr. Mercer noted that the prior base rate case did not include the costs of Petitioner's participation in the EEP or a provision for the initial funding that is required of Petitioner for its future annual decoupling filing. Additionally, he observed that the prior base rate case did not consider changes in Petitioner's energy efficiency rebates previously included through its normal temperature adjustment ("NTA") proceeding, the costs of filing this proceeding, or changes in taxes and the

¹ Cause No. 43753-U.

IURC fee since that prior base rate proceeding. Further, Mr. Mercer explained that once Petitioner's revenue requirement changed, there would be certain flow through impacts on bad debt, taxes, the IURC fee, and Petitioner's working capital. Petitioner also proposed to eliminate the investment tax credit ("ITC") from its capital structure. Mr. Mercer testified that it is necessary to consider these matters now as part of Petitioner's implementation of the Energy Efficiency Program. Mr. Mercer stated that Petitioner suggests changes in the distribution main extension calculation and in Petitioner's current tariff language to maintain consistency with the tariff language approved for South Eastern Indiana Natural Gas ("South Eastern") in Cause No. 44128 because South Eastern is an affiliated entity.

Mr. Mercer described the impact of the proposed adjustments to Petitioner's base rates associated with recovering its costs. Mr. Mercer concluded that the approximate 1.22% increase in revenues, excluding the cost of gas, is reasonable. Additionally, Mr. Mercer referenced prior Commission Orders in Cause Nos. 44062, 44063, 44128, and 44129 (collectively "the EEP rate cases") as supporting the proposed recovery and the amortization period proposed for such recovery and calculation of distribution main extensions. Mr. Mercer concluded that the changes proposed effectively and efficiently resolve the issues of implementing the Energy Efficiency Program authorized for Petitioner and several other small natural gas utilities in the EEP without the expense or time involved with a typical base rate proceeding.

Petitioner's witness, Kerry Heid, a licensed professional engineer and rate design expert, offered testimony and exhibits explaining that Petitioner would implement the funding and decoupling mechanisms of the Energy Efficiency Program through an Energy Efficiency Rider ("EER"), consistent with the mechanism recently approved by the Commission in the EEP rate cases. Mr. Heid explained that the EER contains two components, an Energy Efficiency Funding Component ("EEFC") and a Sales Reconciliation Component ("SRC"). Mr. Heid indicated that the EEFC will recover \$0.83 per month from each residential customer. The SRC provides Petitioner a mechanism with which to decouple or break the linkage between volumes sold and cost recovered. He stated that the SRC will be reviewed annually and it meshes well with the energy efficiency initiatives that Petitioner will be promoting.

Mr. Heid explained that the tariff changes are necessary in order to separate Petitioner's residential service from its general service because the EER is only applicable to residential customers although the proposed tariff treats the two rate classes identically. He suggested that the new revenue requirement be recovered through an across the board increase for each customer class. In Exhibit KAH-2, Mr. Heid provided the derivation of the proposed rates and charges.

With respect to the main extension policy, Mr. Heid described Petitioner's desire to have tariff language consistent with that approved by the Commission for South Eastern Indiana Natural Gas. He explained that the tariffs will not be identical because Fountaintown has different rate classes and is not proposing to adopt South Eastern's monthly customer charges. Mr. Heid also provided the proposed tariff as Exhibit KAH-3.

B. Petitioner's Settlement Testimony. Petitioner also offered the settlement testimony of Mr. Mercer, describing the Settlement between the Parties in this Cause. Mr. Mercer explained that Petitioner and the OUCC had reached an agreement on all issues and reduced that agreement to the Settlement filed with the Commission. Mr. Mercer indicated the Parties agreed that Petitioner should eliminate the ITC from its capital structure. The table below illustrates the

agreed upon capital structure:

Settlement Agreement Capital Structure				
Description	Amount	Percent of Total	Cost	Weighted Cost
Common Equity	\$5,948,547	82.28%	10.20%	8.39%
Customer Deposits	\$199,296	2.76%	6.00%	0.17%
Post ITC	-	0.00%	10.06%	0.00%
Deferred Taxes	\$1,082,066	14.97%	0.00%	0.00%
Total	\$7,229,909	100.01%		8.56%

He also stated the Parties agreed that main extension calculations will be based on six-year margin revenues. He indicated the Parties agreed to Petitioner implementing the EER, which will consist of an EEFC and a SRC. Mr. Mercer requested that the Commission accept and approve the Settlement and base its final order in this Cause on the terms of such Settlement.

C. **OUCG'S Settlement Testimony.** The OUCG offered the settlement testimony of Heather R. Poole, who noted the review the OUCG had made of Petitioner's proposal and supported the requested changes in its rates, charges, and tariffs. Ms. Poole testified about the compromises made by the Parties to resolve the outstanding issues. Specifically, the Parties reached agreement on the rate increase, rate base, rate case expense and amortization period, EEP expenses, decoupling expenses, NTA expense, tax expense, IURC fee, bad debt expense, capital structure, rate structure, main extension policy, and tariff changes including the customer service/distribution charges by rate class. The Parties settled on a 1.22% increase to rates and charges to produce an additional \$25,173 in annual revenue. Ms. Poole testified that the OUCG considers the settlement terms reasonable and in the public interest.

5. **Discussion and Findings.** Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401 (Ind. Ct. App. 1996)). Thus the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406. Furthermore, any Commission decision, ruling, or order, including the approval of a settlement, must be supported by specific findings of fact and sufficient evidence. *United States Gypsum, Inc.*, 735 N.E.2d at 795. The Commission's own procedural rules require that settlements be supported by probative evidence. 170 I.A.C. 1-1.1-17(D). Therefore, before the Commission can approve the Settlement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement is reasonable, just, and consistent with the purpose of Ind. Code ch. 8-1-2, and that such Settlement serves the public interest.

Petitioner requested relief pursuant to Ind. Code ch. 8-1-2.5, the Alternative Utility Regulatory ("AUR") Act. Petitioner is an "energy utility" under the AUR Act. Under Section 6(a)(1) of the AUR Act, the Commission may adopt alternative regulatory practices, procedures and mechanisms and establish just and reasonable rates and charges that: (a) are in the public interest as determined by consideration of the factors listed in Ind. Code § 8-1-2.5-5; and (b) enhance or

maintain the value of the energy utility's retail energy services or property, including practices and procedures focusing on price, quality, reliability and efficiency of the service provided by the energy utility. Pursuant to Ind. Code § 8-1-2.5-5(b), the Commission, in determining whether the public interest will be served must consider:

- (1) Whether technological or operating conditions, competitive forces, or the extent of regulation by other state or federal regulatory bodies render the exercise, in whole or in part, of jurisdiction by the commission unnecessary or wasteful.
- (2) Whether the commission's declining to exercise, in whole or in part, its jurisdiction will be beneficial for the energy utility, the energy utility's customers, or the state.
- (3) Whether the commission's declining to exercise, in whole or in part, its jurisdiction will promote energy utility efficiency.
- (4) Whether the exercise of commission jurisdiction inhibits an energy utility from competing with other providers of functionally similar energy services or equipment.

The Parties, through their respective pre-filed testimony and exhibits, have provided the Commission with evidence supporting relief under Ind. Code § 8-1-2.5-6 and their compromise offered through the Settlement in this Cause. The evidence recognizes the appropriateness of continuing to use Petitioner's operating expenses recognized in Cause No. 43753-U adjusted only for those costs connected to the Energy Efficiency Program, future decoupling filings with the Commission, the costs of this particular proceeding, changes in taxes and the IURC fee, and the impact that flows through to various taxes, the IURC fee, bad debt, and working capital from these adjustments to Petitioner's revenue requirement.

The Commission, in its March 15, 2013 Docket Entry, questioned certain adjustments regarding Petitioner's IURC Fee calculation and existing rate case amortization. Petitioner's response indicated that while it could correct its adjustments, the effect was de minimis. While we agree with Petitioner that the effect of correcting the adjustments has a minimal impact on Petitioner's rates, Petitioner's response fails to convince us that making the correct calculation was not appropriate from the start. Given that the Commission has properly calculated the adjustments, we modify the Settlement as follows:

- A. **Income Taxes.** To update state and federal income taxes for tax changes from its previously approved order in Cause No. 43753-U, Petitioner did not account for the adjustment made to the IURC Fee. Thus, after accounting for the IURC fee adjustment, the adjustments for state and federal income taxes are a decrease of \$4,109 and an increase of \$9,064, respectively.
- B. **Rate Case Expense.** Petitioner's adjustment for rate case expense included only the costs applicable to Cause No. 44292 and amortized over four years. However, Petitioner did not include the twenty-three months of remaining unamortized rate case expense from Cause No. 43753-U nor did it deduct the test year amount of rate case expense granted in Cause No. 43753-U from the proposed rate case adjustment.

Therefore, Petitioner's adjustment for rate case expense after accounting for these exclusions results in an adjustment increase of \$8,792.

C. Petitioner's Revenue Requirement. The effects of the Settlement, as modified, are reflected in the following table:

Total original cost rate base	\$5,583,343
Rate of return	<u>8.56%</u>
Approved net operating income	477,934
Pro forma present rate net operating income	<u>466,821</u>
Increase in net operating income	11,113
Tax conversion rate	<u>1.6837</u>
Approved operating revenue increase	<u><u>\$18,711</u></u>
Pro forma present rate revenue	\$2,153,596
Approved operating revenue increase	<u>18,711</u>
Proposed operating revenue	2,172,307
Proposed operating expenses	<u>1,694,373</u>
Approved net operating income	<u><u>\$477,934</u></u>

Based upon the evidence of record and the Settlement of the Parties, we find that Petitioner should be authorized to increase its rates and charges by approximately 0.90% in order to produce an additional operating revenue net of the cost of gas of \$18,711. This will allow Petitioner to continue earning 8.56% on its total original cost rate base of \$5,583,343, which authorizes Petitioner the opportunity to recover a total net operating income of \$477,934.

We find that the proposed allocation of this increased revenue requirement on an across-the-board basis to all customer classes is reasonable. We agree the separation of Petitioner's existing general service rate class into a residential and a non-residential rate class is a reasonable change and will allow Petitioner to more easily apply the EER, including the EEFC and SRC. However, as we noted in the EEP rate cases:

Petitioner must move towards straight-fixed variable rate pricing in order to continue implementing a decoupled rate design. This will require Petitioner to file a cost of service study in its next rate proceeding in order to increase the amount of fixed costs recovered through Petitioner's customer charges. With the addition of the SRC to Petitioner's rates, which reduces Petitioner's risk in earning its authorized margins, we believe it is imperative for Petitioner to demonstrate that its rates are cost-based.

See, e.g., Cause No. 44062 at 25. Further, in Cause No. 43180, we encouraged utilities to continue to move toward straight-fixed variable rate design, and the implementation of the SRC is a step in that direction. In order to confirm that Petitioner's costs are appropriately allocated across its customer base, we further direct Petitioner to file a cost of service study in its next base rate case.

Finally, we believe that Petitioner's other proposed tariff changes such as the distribution main calculation are reasonable, supported by the evidence of record, and authorize Petitioner to file a new tariff in accordance with its testimony and Exhibit KAH-3.

Pursuant to the terms of the Settlement, the Parties agree that the Settlement should not 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 citations of the Settlement, we find that our approval herein should be recognized in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434 (IURC March 19, 1997).

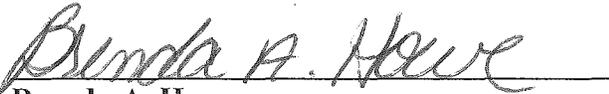
IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION THAT:

1. The Stipulation and Settlement Agreement attached is hereby approved as modified.
2. Petitioner is authorized to increase its rates and charges in accordance with our findings in Paragraph 5 of this Order to produce an additional \$18,711 in annual reveue.
3. Petitioner is authorized to implement the Energy Efficiency Program previously approved in Cause No. 43995, including the recovery of Petitioner's share of joint Energy Efficiency Program costs and SRC recovery, subject to the terms of our final Order in Cause No. 43995 and in accordance with our findings in Paragraph 5 of this Order.
4. Petitioner is authorized to implement its alternative regulatory plan for main extension cost recovery in accordance with our findings in Paragraph 5, above.
5. Petitioner shall file with the Commission under this Cause, prior to placing into effect the rates, charges, and terms and conditions for gas service authorized herein, tariff schedules set out in accordance with the Commission's rules for filing utility tariffs. Said tariffs, when filed by Petitioner and upon approval by the Commission's Natural Gas Division shall cancel all present and prior rates and charges concurrently when said rates and charges herein are approved and placed into effect by Petitioner.
6. Petitioner shall file a cost of service study in its next base rate case.
7. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: MAY 15 2013

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


Brenda A. Howe
Secretary to the Commission

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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COMPANY, INC. FOR AUTHORITY TO CHANGE)
ITS RATES, CHARGES, TARIFFS, RULES, AND)
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STIPULATION AND SETTLEMENT AGREEMENT

Fountaintown Gas Company, Inc., (hereafter "Petitioner") and the Indiana Office of Utility Consumer Counselor (hereinafter "OUCC") have, through their respective representatives, discussed the evidence of record in this matter and in Cause No. 43995, and the potential for compromise of all issues in this Cause. The result of such discussions between the Petitioner and the OUCC (hereinafter collectively the "Parties") is a settlement on all issues as described by this Stipulation and Settlement Agreement (hereinafter the "Settlement").

The Parties believe that the evidence of record supports the terms of this Settlement. The Parties acknowledge that the terms and conditions of this Settlement are a result of negotiations and compromise between the Parties relative to the position each has taken or would take in further proceedings in this Cause. In the interest of efficiency, saving the limited resources of the regulatory bodies involved, and recognizing the reasonableness of the results produced by this Settlement, and the Parties prior settlement in Cause No. 43995, the Parties herein stipulate and agree as follows:

1. **Rate Increase.** Based on the test year ending December 31, 2008, as described in the Commission's Order in Cause No. 43753-U, adjusted solely for the costs associated with this proceeding, Petitioner's share of costs associated with Cause No. 43995, an appropriate initial funding for future decoupling expense, the appropriate flow through effect of these changes on the working capital component of Petitioner's rate base, and reflection in Petitioner's capital structure of the elimination of the investment tax credit (ITC) which no longer is applicable to Petitioner; the Parties now agree that Petitioner should be authorized to increase its base rates for purposes of natural gas service to its residential customers to produce additional annual operating revenue, exclusive of the cost of gas, of \$25,173. This represents an increase of approximately 1.22% over adjusted test year operating revenue, excluding the cost of gas.

2. **Proforma Adjustments.** Petitioner proposes and the OUCC agrees that the only adjustments to its test year results are those set forth numerically in Petitioner's Exhibit DCM-1 on its pages 1 through 9 as further described below:

ARP Expenses Associated with the Energy Efficiency Program

(EEP). The Petitioner proposed recovery of its cost in participating with other small gas utilities in the ARP initiated to establish the EEP, along with funding and decoupling mechanisms. Such ARP was filed under Cause No. 43995 and resulted in an order from the Commission on November 30, 2011. Following discussion, the Parties agree the appropriate amount to be recovered is \$24,600, and that an amortization period utilizing three years, in keeping with the amortization period ordered by the Commission in Cause No. 44062, is reasonable. The resulting

adjustment agreed to by the Parties is an upward adjustment to test year of \$8,200 reflected on page 3 of 9.

Decoupling Expenses. The Petitioner has described future filings that this Petitioner will be required to make as part of the EEP as required under Cause No. 43995. Following discussion among the Parties, the OUCC agrees that some costs will be incurred and relate solely to work that will be required of this Petitioner. The Parties have agreed that Petitioner's test year should be adjusted upward by \$3,511 as reflected on page 3 of 9.

Rate Case Expense and Amortization. The Parties agree, in light of the settlement of this particular case, that recovery of \$60,000 in rate case expense amortized over four years in keeping with the amortization period ordered by the Commission in Cause No. 44062 is a reasonable amount to recover for this Cause as reflected on page 3 of 9. Petitioner has also agreed to change its rates in the future for purposes of eliminating this amortization following four full years of recovery if a new rate case has not been filed.

Normal Temperature Adjustment (NTA). The Parties agree that Petitioner should remove certain energy efficiency rebates previously included in its NTA due to the inclusion of such rebate in the proposed EEP through an adjustment to test year in the amount of (\$10,800) as reflected on page 3 of 9.

Taxes. The Petitioner has indicated that both state and federal income taxes will change due to the adjustments proposed in this proceeding. The OUCC agreed with Petitioner's description of the flow through nature of such taxes and also agreed with Petitioner's method of calculating such taxes. The state and federal income taxes required of Petitioner are those reflected on page 2 of 9; followed by the adjustments for state and federal income taxes on page 4; followed by the adjustments reflected on pages 6 and 7. The Parties indicate that it is their belief that these taxes are reasonable and should be included in the Commission's final order, using the same method of calculation used by the Parties and as reflected in the Settlement Schedules.

Utility Receipts Tax. The Parties acknowledge that the change in Petitioner's revenue will also flow through and impact its utility receipts tax as reflected on page 6.

IURC Fee. The Parties acknowledge that as part of the adjustments to test year, the current IURC fee should be used and included in the revenue requirement as reflected on page 2; followed by the adjustment on page 5.

Bad Debt. The Parties acknowledge that the change in Petitioner's revenue requirement will also flow through and impact its bad debt as reflected on page 5.

ITC. The Parties acknowledge that the Petitioner's investment tax credit (ITC) is no longer applicable to Petitioner and as such, should be eliminated from Petitioner's capital structure previously determined by the Commission in Cause No. 43753-U. The Parties agree that the change described on page 9 of 9 for ITC is the only change that should be made in Petitioner's capital structure.

Working Capital. The Parties acknowledge that changes in the recovery of operating expenses described above will have an effect and should flow through to the working capital component of Petitioner's rate base as previously determined by the Commission in its Order in Cause No. 43753-U. The Parties agree that the change for working capital described on page 8 of 9 is the only change that should be made in Petitioner's rate base.

3. Pro Forma Net Operating Income. Based upon the agreement of the Parties to use Petitioner's rate base and cost of capital as reflected in the Commission's Order in Cause No. 43753-U as adjusted for ITC and working capital noted above; and recognizing the Parties' agreement on all other elements of Petitioner's revenue requirements set forth above; the Parties agree the Petitioner should be authorized to earn 8.56% on its invested original cost rate base of \$5,584,119, thus authorizing Petitioner the opportunity to earn a net operating income of \$478,001.

4. Cost of Service/Tariffs. Following extensive discussions among the Parties about Petitioner's current rate classes; a desire by the Parties to promote the EEP and encourage

energy efficiency; the Parties have agreed that Petitioner should separate the current Rate A general service class into a separate residential class (Rate RS) and a non-residential general service class (Rate GS) which would include all other non-residential customers (with an installed meter size of 250 or less). The Parties further agree that the monthly customer charge for all customers should be changed in accordance with applying the revenue requirement determined by this proceeding on an across-the-board basis. The distribution charge should also be changed across the board in keeping with the changed revenue requirement as provided by this Settlement Agreement.

As part of its direct case, the Petitioner also proposed an Energy Efficiency Rider to initially implement an Energy Efficiency Funding Component (EEFC) of 83¢ per month per residential customer for purposes of funding its EEP and to implement a Sales Reconciliation Component (SRC) for all residential customers as its decoupling mechanism. Both the EEFC and the SRC flow from this Commission's order in Cause No. 43995. Following discussions with the Petitioner, the OUCC now agrees that the EEFC and the SRC should be implemented as proposed. The tariff the Parties propose be used to implement the EEFC and the SRC is as set forth in the language of Petitioner's tariff filed as Exhibit KAH-3.

Finally, the Petitioner proposed that its current tariff be changed in order to mirror the existing South Eastern Indiana Natural Gas Company, Inc. tariff due to the fact that this Petitioner is managed by the same officers who manage South Eastern. The OUCC has indicated it has no objections to changing Petitioner's tariff in keeping with the tariff on file for South Eastern.

5. **Main Extension Policy.** The Petitioner proposed an alternative regulatory plan to change the calculation for main extensions from one involving gross revenue to one involving

margin revenue. Petitioner also proposed that the three year average of revenue be changed to a six year average. The OUCC has indicated it has reviewed Petitioner's proposal and following further discussions with Petitioner, agrees that the main extension should be calculated on margin revenue and should use a six year period instead of a three year period. The Parties agree that the tariff, filed as Exhibit KAH-3, appropriately describes the agreed main extension policy that this Petitioner should use following a final order from the Commission in this Cause.

6. **Request for Prompt Approval by the Commission.** The Parties acknowledge that a significant motivation for the Petitioner to enter into this Settlement is the expectation that a final order will be issued promptly by the Commission authorizing increases in its rates and charges as reflected herein. The Parties have spent significant time and effort to resolve the issues raised in this case. However, the Parties also recognize the insufficiency of Petitioner's current rates, as reflected by the prefiled evidence. Under these circumstances, the Petitioner requests prompt approval of this Settlement by way of a final order of the Commission.

7. **Sufficiency of the Evidence.** The Parties believe that the Petitioner's direct testimony and exhibits, the OUCC's settlement testimony, and the Petitioner's settlement testimony, along with this Stipulation and Settlement Agreement, constitute substantial evidence sufficient to support this Settlement and provide an adequate evidentiary basis upon which the Commission may make findings of fact and conclusions of law necessary to issue a final order adopting and approving this Settlement.

8. **Settlement Effect, Scope, and Approval.** The Parties acknowledge and agree as follows:

- (a) This Settlement is conditioned upon and subject to its acceptance and approval by the Commission in its entirety without change or

condition that is unacceptable to any party. Each term of the Settlement is in consideration and support of each and every other term.

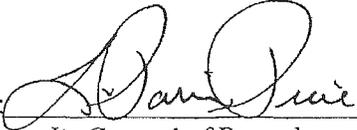
- (b) This Settlement is the result of compromise by the Parties within the settlement process. Neither the making of this Settlement nor any of the individual provisions or stipulations herein shall constitute an admission or waiver by any Party in any other proceeding; nor shall they constitute an admission or waiver in this proceeding if the Settlement is not accepted by the Commission. The Parties hereto shall not use this Stipulation or the Order provided by this Stipulation as precedent or offer the same as an admission in any other proceeding or for any other purpose except to the extent necessary to implement or enforce its terms. In the event this Stipulation or resulting Order is offered for any purpose prohibited by this Agreement, the Parties agree that objections by the non-offering party are proper.
- (c) The communications and discussions among the Parties, along with the materials produced and exchanged during the negotiation of this Settlement, relate to offers of settlement and compromise, and as such, all are privileged and confidential. Such material cannot be used in this or any other proceeding without the agreement of the Parties herein.

- (d) The undersigned represent and agree that they are fully authorized to execute this Settlement on behalf of their designated clients who will thereafter be bound by this Settlement.
- (f) The Parties hereto will either support; or not oppose on rehearing, reconsideration, and/or appeal; an IURC order accepting and approving this Settlement in accordance with its terms.

Accepted and agreed this 28th day of February, 2013.

FOUNTAIN TOWN GAS
COMPANY, INC.

By:


Its Counsel of Record

INDIANA OFFICE OF UTILITY
CONSUMER COUNSELOR

By:


Its Counsel of Record