



STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF SYCAMORE GAS COMPANY FOR )  
APPROVAL TO INCREASE ITS RATES AND ) CAUSE NO. 45072  
CHARGES FOR GAS SERVICE AND FOR )  
AUTHORIZATION TO TRACK ADDITIONS OF ) APPROVED:  
CUSTOMER SERVICE LINES. )

MAR 06 2019

JA  
B3  
DW  
SNK

ORDER OF THE COMMISSION

**Presiding Officers:**

**Sarah E. Freeman, Commissioner**

**Loraine L. Seyfried, Chief Administrative Law Judge**

On March 29, 2018, Sycamore Gas Company, Inc. ("Petitioner" or "Sycamore") filed a petition seeking to increase its base rates and to establish a mechanism to recover via a tracking mechanism its future investments in repairing and replacing parts of its customers' service lines. Sycamore filed its case-in-chief on April 12, 2018, which was subsequently replaced by its filing on April 17, 2018. Sycamore also filed supplemental direct testimony on April 24, 2018, and May 1, 2018.

On June 7, 2018, the Phase 2 issues in Cause No. 45032 associated with the Commission's investigation into the impacts of the Tax Cuts and Jobs Act of 2017 ("TCJA") were removed from consideration in Cause No. 45032 S3 and transferred to this Cause for consideration.

On July 31, 2018, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its case-in-chief.

Sycamore and the OUCC subsequently reached a settlement of all previously disputed issues, with the exception of one Phase 2 TCJA issue. On September 19, 2018, Petitioner filed the parties' Stipulation and Partial Settlement Agreement ("Settlement Agreement") and both parties filed supporting testimony and exhibits. On that same day, Sycamore filed rebuttal testimony addressing the sole issue not covered by the Settlement Agreement.

On October 2, 2018, Sycamore and the OUCC responded to questions from the Presiding Officers issued in an October 2, 2018 docket entry.

An evidentiary hearing was commenced at 9:30 a.m. on October 3, 2018, in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Sycamore and the OUCC both appeared by counsel and participated in the hearing. The prefiled testimony and exhibits of both parties were admitted into the record without objection.

On January 30, 2019, the Presiding Officers reopened the record for the purpose of clarifying discrepancies in the exhibits and convened another hearing at 9:00 a.m. on February 18,

2019 in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. The evidentiary hearing was then continued on the record to 3:00 p.m. that same day, at which time both Sycamore and the OUCC appeared by counsel and participated in the hearing.

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

1. **Notice and Jurisdiction.** Notice of the hearings in this Cause was given and published by the Commission as required by law. Sycamore is public utility as defined in Ind. Code § 8-1-2-1. Under Ind. Code § 8-1-2-42, the Commission has authority to approve changes in the schedule of rates, tolls, and charges of Indiana public utilities. The Commission also has authority to initiate an investigation into all matters relating to any public utility pursuant to Ind. Code § 8-1-2-58. In addition, Ind. Code § 8-1-2-72 authorizes the Commission to alter or amend any order made by the Commission, upon notice and after opportunity to be heard. Accordingly, the Commission has jurisdiction over Petitioner and the subject matter of this Cause.

2. **Petitioner's Characteristics.** Sycamore is an Indiana corporation with its principal office at 370 Industrial Drive, Suite 200, Lawrenceburg, Indiana. Petitioner renders natural gas utility service to the public in Dearborn, Franklin, and Ohio counties in Indiana. Sycamore's rates and charges for gas utility service were last established by the Commission in an Order issued on June 20, 2007, in Cause No. 43090.

3. **Summary of Evidence Presented.**

A. **Petitioner's Case-in-Chief.**

1. **John S. Browner.** Mr. Browner, Petitioner's President, described the utility and its need for rate relief. He stated that over the past 11 years since Sycamore's last rate case, Petitioner's costs have increased, but its customer base has not grown sufficiently to provide additional revenue to meet the increased costs. He stated Sycamore's need for rate relief is further supported by its gas cost adjustment filings, which show accumulated under-earnings of more than \$7 million.

Mr. Browner sponsored: (1) the settlement reached with the OUCC of a 10.05% rate of return on Sycamore's common equity capital; (2) the resolution of Sycamore's Board of Directors authorizing the filing of this case; and (3) the notice to customers of this filing as required by 170 IAC 5-1-18.

2. **Cynthia S. Hughes.** Ms. Hughes, Petitioner's Chief Financial Officer, sponsored financial exhibits, including an income statement and balance sheet for Sycamore at the end of the September 30, 2017 test year. She explained her various pro forma adjustments to the test year data, including an adjustment to fully incorporate the lower federal income tax rates from the TCJA adopted after the test year. Noting that Sycamore and the OUCC settled on a 10.05% cost of equity and that neither Sycamore nor its parent company has any long-term debt, Ms. Hughes determined that the utility's overall rate of return should be 8.91% after accounting for customer deposits and deferred income taxes. Including additions to utility plant in service through March 31, 2018, she calculated the value of Sycamore's original cost rate base,

less depreciation, to be \$16,115,658. She further determined that Sycamore's pro forma net operating income should be \$1,962,411 after grossing up for taxes, which would require additional annual revenue of \$773,651.

**3. Nichole M. Clement.** Ms. Clement, a certified public accountant and partner with Gilmore Jasion Mahler, LTD, calculated Petitioner's deferred tax liability as of the end of the test year, September 30, 2017, and then adjusted that amount to reflect the reduction in the utility's federal corporate income tax rate from 34% to 21%. She explained how the lower income tax rate impacts Sycamore's deferred tax account. She determined the weighted average remaining book life of Petitioner's underlying asserts is 15.33 years, which she stated results in an annual reduction to tax expense of \$105,537. She also described her calculation of the gross revenue conversion factor applicable to Petitioner's revenue requirement.

**4. John T. Stenger.** Mr. Stenger, a professional engineer and consultant, testified concerning Sycamore's additions and replacements to its plant in service since its last base rate case in 2006, noting that Sycamore's overall customer count decreased by one customer. Mr. Stenger described Petitioner's implementation of a normal temperature adjustment mechanism and proposed a change to the utility's maintenance and replacement of customer service lines. He testified that customers have historically owned and been responsible for the service lines located between their property line and Sycamore's gas meter. However, this practice has become increasingly impractical due to new regulations. Therefore, Petitioner is proposing to move the demarcation point for ownership of, and responsibility for, the service line from the property line to the point at which the service line exits Sycamore's gas meter.

**5. Michael J. Martin.** Mr. Martin, President of Martin Energy Consulting, sponsored various pro forma adjustments to Sycamore's test year finances to annualize and normalize its revenues, expenses, and plant expenditures and to amortize or eliminate certain non-recurring costs during the test year. He also supported changes to Sycamore's tariffs and proposed a means for allocating the utility's revised base rates among its various classes of customers based on an allocated cost of service study ("COSS").

**B. OUC's Case-in-Chief.**

**1. Mark H. Grosskopf.** Mr. Grosskopf, a Senior Utility Analyst with the OUC, testified that the OUC supports an increase in Sycamore's pro forma revenue requirement of \$680,688, resulting in an increase in gross margin of 14.52%. He stated the OUC's revenue requirements are based on an original cost rate base of \$15,892,533, and the OUC's capital structure yields a weighted cost of capital of 9.01%, resulting in a return on original cost rate base of \$1,432,359.

Mr. Grosskopf explained that the OUC's accounting schedules incorporated Sycamore's test year ending September 30, 2017 and rate base cut-off date of March 31, 2018. He clarified that he sponsored adjustments for the public utility fee, Indiana utility receipts tax, and the state and federal income tax adjustments.

Mr. Grosskopf made three changes to Sycamore's proposed public utility fee calculation,

including a deduction from revenue for Petitioner's pro forma bad debt, updating the public utility fee rate, and changes resulting from modifications in pro forma revenue and gas purchases from weather normalization adjustments. Mr. Grosskopf did not dispute Sycamore's methodology in calculating the Indiana utility receipts tax, but noted he included the \$1,000 annual deduction allowed by the Indiana Department of Revenue in his adjustment.

Mr. Grosskopf testified the OUCC did not dispute Sycamore's methodology in calculating its pro forma federal and state income tax adjustments based on pro forma present rates. He verified the methodology is consistent with income tax calculations previously approved by the Commission, and Sycamore used the new 21% federal income tax rate resulting from the TCJA to calculate its pro forma federal tax adjustment. All other changes to Sycamore's federal and state income tax calculations are a result of changes to other pro forma proposed revenue requirements.

Mr. Grosskopf testified there are three adjustments necessary to reflect the impact of the TCJA on a regulated utility's rates and charges: (1) reduction of federal income tax expense embedded in utility rates to reflect the new 21% corporate tax rate on a going-forward basis; (2) refund of the federal income tax expense over-collected by the utility from January 1, 2018 until the federal income tax rate embedded in rates and charges is reduced to 21%; and (3) reduction of federal income tax expense to reflect the return of excess accumulated deferred income taxes ("EADIT") created when revalued at the 21% rate. He noted the first adjustment is a Phase 1 issue, which is being addressed in Cause No. 45032 S3 for Sycamore. The other two adjustments are Phase 2 issues and are being addressed in this Cause.

Mr. Grosskopf agreed Petitioner's proposed amortization of EADIT over the weighted average remaining life of its assets of 15.33 years, or 184 months, is appropriate. He stated that the entire EADIT liability is considered protected and the weighted average remaining life amortization period is required by the TCJA. He also testified that Petitioner has an unprotected tax asset of \$20,250 with a refundable difference between the 34% tax rate amount and the 21% tax rate amount of \$8,507, representing a nominal amount. Mr. Grosskopf recommended it be amortized with the total EADIT at the same 184 months as the protected regulatory liability.

Mr. Grosskopf did not recommend approval of Petitioner's proposed refund of EADIT because he disagreed with the deferred income tax balance Petitioner used as the starting point of the calculation, which does not agree with Petitioner's balance sheet or general ledger. Mr. Grosskopf used the deferred income tax balances from Petitioner's general ledger, reflected in the balance sheet sponsored by OUCC witness Gordon to calculate the difference between deferred taxes at the 34% tax rate and the 21% tax rate. He amortized this difference (i.e., \$1,782,624) over Petitioner's calculated 184 months to yield an annual amortization of \$116,258, which is reflected as a reduction to revenue requirements.

Mr. Grosskopf noted Petitioner was silent regarding the over-collection of tax expense in its current base rates. He stated ratepayers should receive a credit for the federal taxes they are over-paying in rates from January 1, 2018, up to the date Petitioner's base rates are adjusted. Mr. Grosskopf provided an estimate of the amount Petitioner should refund its customers of \$224,438 based on calculations provided in Cause No. 45032 S3. He recommended this amount be used as a temporary proxy since Petitioner has not provided an estimate of the excess income tax collected.

He also stated that this over-payment of federal income tax could be refunded over the same period in which it is being collected. He further recommended that after new rates are approved in this Cause, Petitioner should be required to file a compliance filing to calculate the correct amount of the over-payment, and return the excess federal tax collected through a temporary tracker, allocated to each rate class based on actual revenues received during the period collected.

**2. Amy E. Larsen.** Ms. Larsen, a Utility Analyst II, reviewed and analyzed Sycamore's revenue and operation and maintenance adjustments. She proposed adjustments to retail and wholesale customer sales, normal temperature adjustment, clerical service work, management service contract, building lease expense, charitable contributions, and miscellaneous expenses.

With respect to retail and wholesale customer sales, Ms. Larsen disagreed with billing quantities use in the calculation based on information provided by Petitioner. As to the normal temperature adjustment, Ms. Larsen recommended Petitioner use the most recent National Oceanic and Atmospheric Administration average of 1981–2010. Ms. Larsen recommended an adjustment to clerical service expense to reflect the actual contract amount. She also recommended removal of the management service contract with Superior Utility Operations, Inc. ("Superior"), stating the expense was not included in the contract provided by Petitioner. With respect to the building lease expense, Ms. Larsen adjusted the test year amount to reflect the amount shown in Petitioner's general ledger. Ms. Larsen recommended the removal of certain charitable contributions, citing similarities to other contributions removed by Petitioner. Finally, Ms. Larsen proposed an adjustment for miscellaneous expenses by removing gift cards given to Petitioner's employees.

**3. Isabelle L. Gordon.** Ms. Gordon, a Utility Analyst I, examined and recommended adjustments to Petitioner's balance sheet, operating expenses, rate base, and capital structure. Ms. Gordon testified that Petitioner's balance sheet should be based on actuals as of March 31, 2018, the date of Petitioner's rate base cut-off and capital structure, rather than actuals as of September 30, 2017 with select adjustments. Accordingly, she used Petitioner's balance sheet based on actuals as of March 31, 2018 as the basis for her applicable adjustments.

Ms. Gordon discussed concerns regarding Petitioner's management service contract with Superior. She noted Petitioner made an adjustment for services applicable to the test year, but not recorded during the test year. Because she did not find satisfactory explanation for the additional expenses included in Petitioner's adjustment, she recommended the adjustment be disallowed.

Ms. Gordon testified Petitioner provided support for a 2.2% annual payroll increase based on the Consumer Price Index. Accordingly, she adjusted Petitioner's payroll expense to \$13,493. Because payroll tax is a function of payroll expense, Ms. Gordon also adjusted Petitioner's payroll tax expense to \$1,032.

Ms. Gordon addressed Petitioner's adjustment for an additional utility technician position. Noting the position had not been filled as of June 21, 2018, Ms. Gordon recommended the Commission require Petitioner provide evidence that the position had been filled prior to the end of the 12 months following the test year.

Ms. Gordon testified Petitioner has averaged more than eight years between rate case filings over the past 26 years. Therefore, she disagreed with Petitioner's proposed three-year rate case amortization period and proposed an eight-year amortization period. She stated such a period would be appropriate given Petitioner's interest in filing a seven-year transmission, distribution, and system improvement plan, and its ability to include any remaining rate case expense in its next rate case filing if necessary.

Ms. Gordon noted Petitioner's adjustment to depreciation expense was based on utility plant in service at September 30, 2017, to which Petitioner then made selected adjustments for additions through March 31, 2018. Ms. Gordon's proposed a \$51,961 increase to depreciation expense based on utility plant in service at March 31, 2018, per Petitioner's general ledger.

Because she disagreed with Petitioner's balance sheet as filed, Ms. Gordon also disagreed with the amounts Petitioner presented for its total utility plant in service and accumulated depreciation. She agreed with Petitioner's method of calculating working capital, but made an adjustment based on the OUCC's proposed revenue requirement adjustments.

Ms. Gordon testified she disagreed with Petitioner's capital structure, which was based on a modified September 30, 2017 balance sheet, and instead made adjustments to Petitioner's capital structure based on Petitioner's balance sheet as of March 31, 2018. While Ms. Gordon agreed with Petitioner's method of calculating the weighted average cost of capital, based on the OUCC's adjustments to common equity, customer deposits, and deferred income tax, she calculated a weighted average cost of capital of 9.01%.

Finally, Ms. Gordon addressed concerns with Petitioner's return of customer deposits as outlined in 170 IAC 5-1-15(g)(1). She reviewed a random sample of seven customers whose deposits Petitioner held and found six of those customers should have received a refund of their deposits. She recommended the Commission review Petitioner's refund practices and require, within 90 days of a final order in this Cause, proof of ineligibility for each customer whose deposit Petitioner will retain as well as a list of each customer account and the amount of the deposit to be returned for those deemed eligible.

**4. Leon Golden.** Mr. Golden, a Utility Analyst for the OUCC's Natural Gas Division, testified that he did not object to Sycamore's proposal to assume ownership of natural gas service lines. He did, however, object to Sycamore's proposal to track the costs associated with service line replacement based on the relatively small number of services replaced on an annual basis and the fact that Sycamore has not proposed an accelerated replacement program aimed at making service replacements a high priority. He also noted that Sycamore's case-in-chief did not explain if it would compensate customers who have recently paid to have their service lines replaced or how these service lines would be depreciated.

**5. Bradley E. Lorton.** Mr. Lorton, a Utility Analyst for the OUCC's Natural Gas Division, testified in favor of the parties' agreement on cost of common equity. Mr. Lorton stated that while he would have recommended a lower rate without the settlement, he believed the 10.05% agreed to by the parties was reasonable. He cited the recent South Eastern Indiana Natural Gas and Northern Indiana Public Service Company rate cases, which were settled

in the same range. He also testified that the settlement allows Petitioner a cost of equity above the 2017 national average of 9.72%, as reported by Regulatory Research Associates. He stated that the settlement produced a cost of equity 35 basis points below Petitioner's current level and reduced rate case expense by eliminating the need for a witness on this issue.

**6. Brien R. Krieger.** Mr. Krieger, a Utility Analyst for the OUCC's Natural Gas Division, addressed Sycamore's COSS, proposed rate design, and monthly customer charge. Mr. Krieger explained his analysis of Petitioner's COSS and the rate design results. He testified that not all rate classes were included in the COSS, and Sycamore did not use its customers' data to perform special studies for apportioning costs that may be assignable to specific rate classes.

He stated that his review of Petitioner's COSS showed an over-allocation of costs to Rate WS-Wholesale Rate to the City of Aurora ("Aurora"). Petitioner's COSS indicated a 184% cost increase to Rate WS, yet Petitioner proposed only a 10% rate increase. Mr. Krieger testified that his analysis indicates the actual cost to serve Rate WS warrants up to a 15% increase.

Mr. Krieger also testified that because Rate GS-Meter Group 1 represents approximately 86% of all customers, a special study for meters and regulators has little impact on the COSS. However, he stated a special study for services is important for the next base rate case because Petitioner is in the process of acquiring customer services predominantly owned by the customer.

Mr. Krieger recommended the Commission reject Petitioner's proposed increase in the Rate GS-Meter Group 1 fixed monthly customer charge from \$12.00 to \$18.50. He stated Petitioner's request would be a 54% increase to the residential class and if approved would be the highest of all Indiana natural gas utilities. He noted Petitioner's proposed residential monthly customer charge increase is 2.5 times the percentage of Petitioner's requested total margin increase of 16.5%. Mr. Krieger recommended Sycamore's monthly residential customer charge be set at \$14.00, which is a 16.6% increase over the current charge and more closely aligns with recent Commission-approved residential customer charges for Indiana natural gas utilities.

Based on his review, Mr. Krieger recommended:

- Only a portion of the highest pressure feeder mains (60–300 psig) be allocated in the COSS to Aurora.
- A special study be performed in Petitioner's next COSS to determine the cost causation of service to Aurora.
- The Brookville system and the Bright/Hidden Valley distribution systems not be included in allocation to Rate WS-Wholesale Rate to Aurora.
- Mr. Krieger's allocated revenues (15% increase) to Rate WS not be exceeded.
- Petitioner's next COSS include special studies for services and meters to determine the services allocator and the meters allocator.
- A \$14 Rate GS-Meter Group 1 monthly customer charge.

**C. Settlement Agreement and Supporting Evidence.** The Settlement Agreement between Sycamore and the OUCC addresses all issues except on Phase 2 TCJA issue:

Whether Sycamore should refund a portion of the revenue it has received from ratepayers since January 1, 2018, when federal corporate income tax rates were modified by the TCJA. The other Phase 2 TCJA issue, which relates to ratepayer refunds for the EADIT amount, is covered in the parties' Settlement Agreement.

**1. Petitioner's Settlement Evidence.** Mr. Browner sponsored the parties' Settlement Agreement. Ms. Hughes sponsored revised financial schedules showing the corrections and updated inputs that resulted in or otherwise supported the revenue requirement and rate adjustment agreed upon in the Settlement Agreement. She also explained the changes made in the schedules.

Mr. Martin explained Petitioner's Exhibit 5, Settlement Exhibit MJM-1, which updates pro-forma gas sales and transportation revenues at settled rates and adopted adjustments to operation and maintenance, administration, bad debt, and taxes other than income taxes agreed to by the parties. Finally, he sponsored Petitioner's revised tariff sheets in Settlement Exhibit MJM-4, as reflected in Petitioner's Exhibit Late-Filed 1.

Mr. Stenger addressed the parties' proposed resolution of Sycamore's request for approval of a tracking mechanism to recover the costs of maintaining and replacing portions of customer service lines. Although Sycamore and the OUCC agreed that ownership and responsibility for the customer service line from the curb to the meter should be appropriately assigned to Sycamore, Sycamore agreed to withdraw its request for an associated tracking mechanism. He testified that through March 31, 2018, as many as 1,345 curb-to-meter service lines have been installed or replaced and may be eligible for ownership by Sycamore. Mr. Stenger explained that Petitioner plans to replace an additional approximately 1,400 such lines and to recover the cost of its investment through its pending request for approval of a Federal Mandate Cost Adjustment ("FMCA") mechanism in Cause No. 45131. Finally, for all other customer service lines, Sycamore will perform the work at no additional charge to such customer and add the cost of the project to the utility's rate base. Sycamore will also assume responsibility for maintenance and repair of the new or replaced portion of the service line at no separate charge to the customer other than through future inclusion of the cost as a utility operating expense in base rates.

In response to questions from the Presiding Officers, Petitioner explained why it believes the Settlement Agreement is in the public interest. Petitioner noted that the disputed issues were relatively limited and through negotiations the parties were able to reach an agreement they believe represents a reasonable resolution of the case. Petitioner noted that the public interest is served by having rates that are low but that are also sufficient to support and sustain the utility's provision of safe and reliable service. If the Settlement Agreement were approved, Petitioner indicated that, based on the gas cost adjustment factor approved for October 2018, a residential customer using 10 dekatherms would see a monthly bill increase of \$9.07, which represents an increase of 7.48% above current rates.

**2. OUCC's Settlement Evidence.** Mr. Grosskopf testified that the Settlement Agreement resolved all issues between Sycamore and the OUCC with the exception of the refund of Sycamore's over-collection of taxes resulting from the TCJA, which does not affect



the revenue requirement calculation. He proffered that the income tax over-collection can be refunded through a temporary tracker.

Mr. Grosskopf testified the Settlement Agreement represents a compromise reached in the settlement negotiation process, with give and take by both parties. He noted that the Settlement Agreement provides Sycamore a rate increase of almost the same amount as it requested because the OUCC found numerous errors in Sycamore's calculations, the largest of which benefits Sycamore. He concluded that the overall rate increase agreed to by the parties reflects a fair and accurate representation of Sycamore's revenue requirements.

With regard to rate base, Mr. Grosskopf testified the parties agreed to use the actual March 31, 2018 balances. The parties also agreed to an adjusted 13-month average of materials and supplies that reflects the actual 13-month average from the general ledger of \$263,433. Mr. Grosskopf noted that working capital also changed to reflect the agreed pro forma expense adjustments, resulting in an agreed working capital amount of \$325,864. He stated the total rate base agreed to by the parties is \$15,826,644.

Mr. Grosskopf testified that the parties also agreed to use the actual March 31, 2018 balances for its capital structure. In addition, the OUCC agreed to revise the customer deposits balance in the capital structure to account for a reclassification entry of approximately \$10,000 from accounts receivable to reduce customer deposits. Mr. Grosskopf stated the reclassification entry corrected customer deposit refunds that were applied to customer accounts receivable balances instead of the customer deposit balances. In addition, as a result of Sycamore's completion of the customer deposit study recommended by the OUCC, the parties agree that the remaining customer deposit balance is \$240,355.

As for accounting adjustments, Mr. Grosskopf said that Sycamore agreed to accept the OUCC's position on gas sales service revenue, natural gas purchases, work study clerical expense, building lease expenses, charitable contributions, miscellaneous expenses, payroll tax, and depreciation expense. The OUCC agreed to accept Sycamore's position on payroll expense, management service expense, rate case expense, and amortization of the regulatory liability created by EADIT. Mr. Grosskopf noted the parties came to an agreement on payroll expense and management service expense based on additional information provided by Sycamore, which the OUCC believes justifies the additional expenses. He stated the parties compromised on the amortization of rate case expense at six years, resulting in an amortization amount of \$37,667 per year. As for the amortization of the regulatory liability created by EADIT, Mr. Grosskopf testified that Sycamore agreed to recalculate its actual deferred income tax balance as of December 31, 2017 to determine that \$1,572,697 should be returned to customers. Because the OUCC did not dispute the amortization period of 15.33 years, this results in annual amortization of \$102,567.

Mr. Grosskopf testified the parties agreed to a fixed monthly residential service charge of \$14.50. All other customer service charges will be increased as proposed in Sycamore's case-in-chief.

Mr. Grosskopf testified Sycamore agrees to perform special studies for meters and services in its next rate case to facilitate an accurate cost of service as recommended by the OUCC. He

stated the parties also agreed to a compromise with regard to rate design and its wholesale customer, Aurora. He stated the parties agreed to 12% as an appropriate increase for Aurora.

Regarding Sycamore's proposed customer service line replacement and tracking mechanism, Mr. Grosskopf stated that the OUCC agreed Sycamore should be allowed to take over the customer-owned service lines from the curb to the meter. He stated Sycamore has already completed the replacement of 1,345 customer service lines, which have been reflected in either operation and maintenance expenses or rate base. Sycamore will include the replacement of an additional 1,200–1,400 customer service lines in its pending FMCA mechanism, and the remaining 4,500–4,600 customer service lines will be replaced in the future. Accordingly, the parties agreed Sycamore's proposed customer service line tracker should be eliminated from this Cause.

Mr. Grosskopf stated the parties do not believe the issue concerning any over-collection of income taxes due to the TCJA from January 1, 2018 through the date new rates go into effect can be resolved through settlement. He stated that although the OUCC had proposed refunding the over-collection of federal income taxes received from January 1, 2018 through the date new rates go into effect, Sycamore does not believe any amount is due back to customers.

In conclusion, Mr. Grosskopf testified that the parties agreed to a revenue increase of \$771,216, or 16.45% on gas sales and transportation revenues, excluding the cost of gas. He stated the parties each made material concessions and the terms of the Settlement Agreement demonstrate the give and take of negotiations in resolving multiple contested issues. He stated the Settlement Agreement also reduced the risk and expense of litigation. Accordingly, he said, the OUCC considers the Settlement Agreement to be in the public interest and recommends it be approved. In response to questions from the Presiding Officers, the OUCC also indicated it believes the Settlement Agreement to be in the public interest because it is consistent with Commission precedent and complies with applicable ratemaking and accounting standards.

**D. Petitioner's Rebuttal Case.** Mr. Browner testified that he disagreed with the OUCC's recommendation that Sycamore should refund money to ratepayers going back to January 1, 2018 based on the fact that Sycamore's federal income tax expense was decreased beginning on that date.

Mr. Browner took issue with Mr. Grosskopf's assertion that the Commission's January 3, 2018 Order in Cause No. 45032 requires Sycamore to refund any over-collection of taxes, noting the Commission has authority to initiate an investigation but cannot order a utility to reduce its rates or issue refunds to customers without notice or a hearing. He stated the January 3, 2018 Order was issued with neither notice nor an opportunity to be heard.

Mr. Browner asserted that no refund was warranted because Sycamore's rates have been unreasonably low for some time prior to January 1, 2018. Although Sycamore's tax expense was reduced as of January 1, 2018 with the reduction of the federal corporate income tax rate from 34% to 21%, Mr. Browner stated that this single expense reduction has been more than offset by other increased expenses since Sycamore's last base rate case. He asserted that issuing refunds from revenues based on utility rates that are already too low is unreasonable on its face and would constitute an unlawful confiscation of Sycamore's property.

While Mr. Browner agreed with Mr. Grosskopf that a utility's tax expense in the context of a rate case is one that is passed through to customers, he disagreed that tax expense may be adjusted in isolation between rate cases. He asserted that the evidence is undisputed that Sycamore's increased costs of operation since its last base rate case in 2007 have more than offset its reduced tax expense from the TCJA. While Mr. Browner disagreed any refund is required, he suggested this issue be addressed in a subdocket to this Cause.

#### **4. Commission Discussion and Findings.**

**A. Settlement Agreement.** 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. of Ind., Inc. v. Pub. Serv. Co. of Ind., Inc.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Ind. Code ch. 8-1-2, and that such agreement serves the public interest.

The Settlement Agreement resolves all of the issues presented by the parties in this Cause except for the TCJA Phase 2 tax issue relating to whether Sycamore should refund a portion of the revenue it has received from ratepayers since January 1, 2018, when federal corporate income tax rates were reduced from 34% to 21%. Although the TCJA Phase 2 tax issue, which we address further below, may impact the ultimate rates charged to customers, it has no impact on the determination of Sycamore's revenue requirement discussed herein.

Based on the evidence presented, we find the Settlement Agreement is a fair and reasonable resolution of the issues presented by the parties and minimizes the cost of litigation. A comparison of the parties' positions prior to the Settlement Agreement reflects that the parties were less than \$93,000 apart. The OUCC noted that although the overall rate base agreed upon in the Settlement Agreement was closer to the amount recommended by the OUCC, the resulting revenue increase is closer to the amount requested by Petitioner because of several errors in Petitioner's calculations, the largest of which increases the revenue required and benefits Sycamore.

Prior to the filing of Petitioner's case-in-chief, the parties agreed to a cost of equity of 10.05%. Petitioner's Exhibit 1, Exhibit JSB-2. The parties' agreement indicates the agreed upon cost of equity is consistent with that authorized recently for other relatively small gas utilities, one

through settlement (*Ohio Valley Gas*, Cause No. 44891 (IURC, October 17, 2017) and one through litigation (*Midwest Natural Gas*, Cause No. 44880 (IURC, August 16, 2017). Notably, the equity and long term debt components of Sycamore's regulatory capital structure in this proceeding (88.79% and 0%) are markedly different than those approved in Cause No. 44880 (57.07% and 24.78%). The appropriate risk reflected in the cost of equity investment by the presence of debt obligations in a regulatory capital structure warrants consideration and we encourage the parties to provide more explicit testimony on such consideration in the future. Importantly, we note that the parties' agreement also identifies the reduced recoverable rate case expense and the resulting customer revenue requirement savings. Accordingly, in consideration of these perhaps competing forces, we find the agreed 10.05% cost of equity to be within the range of reasonableness and sufficient to allow Sycamore the opportunity to earn a reasonable return on its investment. The parties also reached agreement concerning the going forward return of the EADIT to customers, the return of customer deposits in accordance with 170 IAC 5-1-15, and reasonable cost allocations.

The evidence demonstrates that the Settlement Agreement balances the interests of the utility and its customers by providing sufficient revenue to the utility for the provision of safe and reliable service at a reasonable price. Therefore, we find that the Settlement Agreement is supported by the evidence of record and that its terms are reasonable, just, and consistent with the purposes of Ind. Code ch. 8-1-2. We further find that acceptance of the Settlement Agreement is in the public interest and approve it.

Accordingly, we find Sycamore's current rates and charges are insufficient to allow it appropriate funds for the safe and reliable operation of the utility and to earn a reasonable return on its investment in utility rate base. Sycamore is authorized to increase its rates and charges to produce additional operating revenue of \$771,216 to provide an opportunity to earn a net operating income of \$1,420,156. A summary of the above findings, including other revenue requirements not in dispute in this Cause, are illustrated in the following table:

Net Original Cost Rate Base	\$15,826,644
Rate of Return	<u>8.97%</u>
Authorized Net Operating Income	\$1,420,156
Pro Forma Net Operating Income	\$855,617
Increase in Net Operating Income	\$564,539
Revenue Conversion Factor	1.366100
Required Revenue Increase	\$771,216
Percentage Increase	9.01%

Finally, the parties agree that the Settlement Agreement 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 citation of the Settlement Agreement, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, 1997 WL 34880849 at \*7-8 (IURC March 19, 1997).

**B. Tax Refund.** In accordance with Ind. Code § 8-1-2-42, -58, -72, and -113, the Commission initiated an investigation on January 3, 2018 to review and consider the implications of the TCJA on utility rates. *Commission Investigation Into the Impacts of the Tax Cuts and Jobs Act*, Cause No. 45032 (IURC Jan. 3, 2018). Among other things, the TCJA reduced the federal corporate income tax rate from 35% to 21%. Recognizing that the TCJA created benefits for utility customers because of the reduced federal tax burden on utilities that began on January 1, 2018, the Commission ordered the Respondents, which included Sycamore, to begin using regulatory accounting for all calculated differences resulting from the TCJA and what would have been recorded if the TCJA had not been enacted.

As set forth in the Commission's February 16, 2018 Order in Cause No. 45032 ("February 16 Order"), the investigation into the TCJA was divided into two phases. The purpose of Phase 1 was "to ascertain the real time existing customer rate impact directly related to the change in the federal income tax rate on the ongoing revenue requirement" and "to foster an expedient process to reflect such impact in customer rates going forward." *Id.* at 2 (footnotes omitted). For Sycamore, this issue was addressed in the Commission's October 9, 2018 Order in Cause No. 45032 S3 ("45032 S3 Order"), which required Sycamore to adjust its rates and charges to reflect the 21% tax rate. Sycamore appealed the 45032 S3 Order to the Indiana Court of Appeals on November 7, 2018, which was docketed as Cause No. 18A-EX-2666. On December 21, 2018, the Indiana Court of Appeals granted a stay of the 45032 S3 Order.

The purpose of Phase 2 was to address all remaining issues, including: (1) the amount and amortization of normalized and non-normalized EADIT, and (2) the disposition of the regulatory accounting being used for estimated impacts resulting from the TCJA. The Commission would also consider the timing and method for how these benefits will be realized by customers, whether directly or indirectly. As indicated above, the parties resolved the amount and amortization of EADIT in the Settlement Agreement. Further, the federal corporate income tax rates established by the TCJA are incorporated into Sycamore's new base rates determined in this Cause, which resolves any issue relating to the TCJA going forward. The parties disagree, however, as to whether Sycamore owes its customers a refund for the time between January 1, 2018 and the date that Sycamore's rates take effect as a result of this Order. Through the presentation of the issues in Cause No. 45032 S3 and this proceeding, the amount in question is the amount determined by the aforementioned regulatory accounting. The OUCC asserts that any savings on a utility's tax expense should be passed through to its ratepayers from the date the savings first began to accrue. Sycamore counters that any tax expense savings have been more than offset by increased costs since its last rate case and therefore, there is no lawful basis for ordering a refund.

These are effectively the same arguments made by the parties and addressed by the Commission in its 45032 S3 Order, which is currently on appeal. Because the 45032 S3 Order resolution directly impacts the regulatory accounting that remains at issue in this Cause, we find that for purposes of administrative efficiency, this issue is best addressed in a subdocket to this Cause once the appeal of the 45032 S3 Order has been resolved. Thus, Cause No. 45072 S1 is created for the purpose of addressing the remaining Phase 2 TCJA issue.

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

1. The Stipulation and Partial Settlement Agreement between Sycamore and the OUCC, a copy of which is attached to this Order, is approved.

2. Petitioner is authorized to implement the rates and charges for gas utility service and revise various non-rate provisions as set forth on its tariff sheets submitted as Petitioner's Exhibit Late-Filed 1, Settlement Exhibit MJM-4.

3. Prior to implementing the rates authorized herein, Petitioner shall file the tariff and applicable rate schedules under this Cause for approval by the Commission's Energy Division. Such rates shall be effective on or after the Order date subject to Division review and agreement with the amounts reflected.

4. A subdocket to this Cause, Cause No. 45072 S1, is created for the purpose of addressing any amounts to be provided to customers as a result of the TCJA and identified in the required regulatory accounting during the period of January 1, 2018 and the date that Sycamore's rates take effect as a result of this Order.

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

**HUSTON, KREVDA, OBER, AND ZIEGNER CONCUR; FREEMAN ABSENT:**

**APPROVED:**      MAR 06 2019

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

*Virginia Lucay acting for Mary Becerra*  
**Mary M. Becerra**  
**Secretary of the Commission**

**STATE OF INDIANA**  
**INDIANA UTILITY REGULATORY COMMISSION**

PETITION OF SYCAMORE GAS COMPANY FOR )	
APPROVAL TO INCREASE ITS RATES AND )	
CHARGES FOR GAS SERVICE AND FOR )	CAUSE NO. 45072
AUTHORIZATION TO TRACK ADDITIONS OF )	
CUSTOMER SERVICE LINES )	

**STIPULATION AND PARTIAL SETTLEMENT AGREEMENT**

This stipulation and partial settlement agreement ("Settlement Agreement") is entered into by the Indiana Office of Utility Consumer Counselor ("OUCC") and the petitioner in this cause, Sycamore Gas Company ("SGC"). SGC and the OUCC are collectively referred to herein as the "Parties." In the interest of efficiency and in order to consider a number of issues raised in SGC's and the OUCC's respective testimony, the Parties have devoted significant time to the review of data and discussion of issues, and have succeeded in reaching an agreement on all but one of the issues in this proceeding, and stipulate and agree to the terms and conditions set forth below.

The Parties did not reach an agreement with respect to whether SGC should be required to refund to ratepayers amounts allegedly over-collected since January 1, 2018 following the reduction of the federal corporate income tax rate adopted in the Tax Cuts and Jobs Act of 2017 ("TCJA"). The Parties instead propose that that issue, the only issue remaining from Phase 2 of the Commission's investigation into the impact of the TCJA, IURC Cause Nos. 45032 and 45032-S3, and transferred from that investigation to this rate case by docket entry issued by the presiding officers in Cause No. 45032-S3 on June 7, 2018, be further removed to a new subdocket of this rate case. Along with the Parties' settlement testimony and this stipulation, their direct and rebuttal testimony addressing the sole unsettled issue of possible customer refunds will be presented to the Indiana Utility Regulatory Commission ("Commission") for

hearing on October 3, 2018. The proposed subdocket of this rate case would be needed only for further proceedings specific to any ordered refund as a result of the TCJA.

In this proceeding, this Settlement Agreement follows the initial filings of SGC's case-in-chief, the OUCC's responsive testimony and exhibits, and SGC's rebuttal of the Phase 2 tax refund issue, all filed in advance of the evidentiary hearing to be conducted by the Commission. Those filings have framed the discussions between the Parties and formed the basis for the Parties' agreement on the terms reflected in this Settlement Agreement.

Each Party has agreed to certain terms and conditions to which each may not have otherwise agreed but for the overall result produced by this Settlement Agreement. As set forth below and in the attached Exhibit SA-1, the Parties' resolution of the settled issues encompasses SGC's rate design as well as all components of its revenue requirement. With few exceptions described herein, the agreed-upon adjustments to the test year proposed in this case reflect either the testimonial positions of SGC or the OUCC, and they are thus grounded upon documented positions that are recorded in this proceeding. The terms of the Settlement Agreement are as follows:

1. Return on Equity Capital. SGC's weighted cost of capital shall be calculated assuming a return of 10.05% on shareholders' equity. The Parties' settlement of this term was reached prior to SGC filing its case-in-chief and was thus already incorporated into both Parties' evidence. As noted in that separate settlement agreement, this rate is within the range of reasonable return on equity levels recently approved by the Commission in other small gas utility rate cases. The Parties also agree to a capital structure and overall cost of capital for purposes of this settlement as shown on Settlement Exhibit CSH-7.

2. Authorized Return. The Parties agree, for the purposes of this Settlement Agreement, that SGC is authorized to earn a return of 8.97% on its original cost rate base as set forth in each Party's revenue requirement settlement schedule. The Parties agree solely for the purposes of settlement that this represents a fair return on the fair value of SGC's investment in



used and useful property, plant and equipment as well as materials and supplies. This same rate should also be applied to determine an amount for SGC's working capital investment.

3. Cost-of-Service. The Parties further agree that in SGC's next general rate case it will undertake a detailed cost-of-service study. The Parties further agree that SGC's revenue requirement should be allocated so that the increase in the distribution charge applicable to SGC's sole wholesale customer, the Town of Aurora should not exceed 12% of its current distribution charge.

4. Revenue and Expense Adjustments. All issues related to the Parties' respective pro forma adjustments are resolved in this Settlement Agreement. The Parties agree these settled adjustments shall be explained further in the testimony offered in support of this Settlement Agreement, and all agreed-upon revenue and expense adjustments differing from SGC's direct or rebuttal testimony shall be set forth in the exhibits attached to the settlement testimony of the respective Parties.

5. Revenue Requirement. The Parties agree that SGC's adjusted test year total operating revenues are \$4,785,144. The Parties also agree that SGC's rates should be designed to allow it to collect from its customers revenue of \$5,556,360, which the Parties further agree justifies an increase to SGC's present base rates for gas utility service to produce additional annual operating revenues in the amount of \$771,216.

6. Rate Case Expense. The Parties agree that SGC should recover expenses associated with this rate case in the amount of \$226,000, amortized over six years, resulting in an additional \$37,667 to its annual revenue requirement, before taxes. To the extent this amount has not been fully recovered by the time of SGC's next rate case, the unrecovered balance shall be added to the expense of that rate case.

7. Facilities Charges. The Parties agree that SGC's current Facilities Charges should be increased from the present levels to \$14.50 monthly for its Rate GS and Rate FT

Group I customers. The Parties further agree that the charges for customers in Groups II and III should be \$34.00 and \$112.50, respectively.

8. Tariff. A revised Tariff for SGC is attached. The only change SGC had proposed to its General Rules and Regulations Applicable to Gas Service related to its initial proposal to replace, own and maintain additional elements of its customers' service lines, between the curb and meter. As part of this settlement SGC has agreed to withdraw that aspect of its request for relief in this cause. Instead, those investments already made have been added to SGC's rate base, and the Parties agree that future investment by SGC in repairing and/or replacing the curb-to-meter portion of a customer's service line will be recovered through SGC's separate federal mandate cost recovery tracker to be established in the pending IURC Cause No. 45131, as well as through SGC's subsequent base rate cases.

9. Request for Prompt Approval by the Commission. The Parties acknowledge that a significant motivation for SGC to enter into this Settlement Agreement of all but one issue is the expectation that an order will be issued more promptly by the Commission authorizing increases in its rates than if all of the previously contested issues were litigated before the Commission. The Parties have spent significant time reviewing each other's cases and negotiating this settlement in an effort to minimize time-consuming and costly litigation. SGC has accepted for settlement purposes various adjustments to its case-in-chief in order to limit litigation so that its new rates are in effect for the upcoming winter heating season. The Parties ask that this proposed resolution of SGC's request for rate relief be promptly considered and approved by the Commission and that a subdocket be established for the separate resolution, and any resulting implementation of that resolution, of the sole unsettled issue carried over from the Commission's tax investigation, Cause No. 45032.

10. Sufficient Evidence to Support Settlement Agreement. The Parties intend that this Settlement Agreement will be filed with the Commission in this cause along with settlement testimony exhibits. The Parties agree that, together with their prefiled direct and rebuttal

evidence, the settlement testimony and exhibits constitute substantial evidence forming a sufficient basis for the Commission to accept the Parties' Settlement Agreement and to enter findings of fact and conclusions of law necessary for the Commission to issue an order adopting and approving this Settlement Agreement on less than all issues.

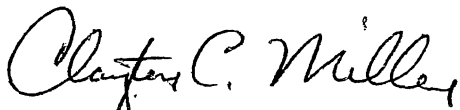
11. Stipulation, Effect, Scope and Approval. The Parties acknowledge and agree that (i) this Settlement Agreement is conditioned upon and subject to its acceptance and approval by the Commission in its entirety without any change or condition that is unacceptable to either party; (ii) each term of this Settlement Agreement is the result of negotiation in the settlement process and the agreement to any particular term shall not constitute an admission or waiver by any party in any other proceeding; (iii) the Settlement Agreement shall not be used as a precedent in any other proceeding or for any other purposes except to the extent provided for herein or to the extent necessary to implement or enforce its terms; (iv) the communications and discussions of materials produced and exchanged during negotiation of the Settlement Agreement relate to the offers of settlement and are privileged, confidential, and inadmissible.

12. Parties Authorized to Execute Settlement agreement. The undersigned represent and agree that each is fully-authorized to execute this Settlement Agreement on behalf of their designated clients, who will be bound thereby.

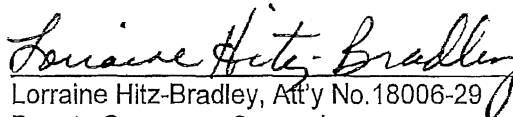
ACCEPTED AND AGREED this 19<sup>th</sup> day of September, 2018.

SYCAMORE GAS COMPANY

INDIANA OFFICE OF UTILITY  
CONSUMER COUNSELOR



Clayton C. Miller, Att'y No. 17466-49  
Stoll Keenon Ogden, PLLC  
201 N. Illinois St., Suite 1225  
Indianapolis, IN 46204  
Attorney for Sycamore Gas Company



Lorraine Hitz-Bradley, Att'y No. 18006-29  
Deputy Consumer Counselor  
Indiana Ofc. of Utility Consumer Counselor