

OFFICIAL  
EXHIBITS

IURC  
PUBLIC'S  
EXHIBIT NO. 2  
3-26-21 AT  
DATE REPORTER

CAUSE NO. 45461

PUBLIC'S EXHIBITS NO.2

JOINT PETITIONER'S RESPONSE TO OUCC DR

3.8, 3.9, 3.10, 3.14, and 3.15

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PUBLIC'S EXHIBITS NO.2

JOINT PETITIONER'S RESPONSE TO OUCC DR

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**DATA REQUEST**  
**Indiana-American Water Company, Inc.**  
**and**  
**Wastewater One, LLC**

**Cause No. 45461**

**Information Requested:**

In Indiana American's rebuttal case, Mr. Shimansky testified that "legal expenses have long been a part of the incidental expenses included in an acquisition."

- a. What precisely does Mr. Shimansky mean in this context by "included in an acquisition"?
- b. For how long have legal expenses been "a part of incidental expenses included in an acquisition"? Please explain.
- c. On what did Mr. Shimansky rely to state his assertion that "legal expenses have long been a part of the incidental expenses included in an acquisition." Please provide any study, analysis, or other document on which Mr. Shimansky relied to support or form his opinion.

**Information Provided:**

- a. See USOA Instruction No. 21.
- b. Since at least 1996, which is the date of the current publication of the USOA.
- c. See a.

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**Information Requested:**

Mr. Shimansky testified “this acquisition is not complete until a final order by the Commission approves the transaction, including the requested ratemaking.”

- a. Please explain why, in Mr. Shimansky’s opinion, the acquisition cannot be complete without the requested ratemaking?
- b. If the basis includes a provision of statute, please so state and cite the applicable provision.
- c. If the basis includes a term of an agreement, please provide the agreement and identify the specific term.

**Information Provided:**

- a. According to Article 2 section 2.5 of the Purchase Agreement, “(t)he date of the Closing shall be no later than forty-five days after the Indiana Utility Regulatory Commission (the “IURC”) issues an Order approving the Contemplated Transaction and the terms and conditions contained ...herein...” The Purchase Agreement can be found in Attachment JS-2 of the Direct Testimony of Justin Schneider. Therefore, it is not Mr. Shimansky’s opinion but rather a condition of the closing on the acquisition.
- b. N/A
- c. See a.

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**Cause No. 45461**

**Information Requested:**

Mr. Shimansky testified that “We cannot buy this system nor can it be sold to us without Commission approval in a docketed case.

- a. What does Mr. Shimansky mean by “this system”? Please explain whether Mr. Shimansky refers to more than the used and useful utility property.
- b. Please identify any statute of which Mr. Shimansky or Joint Petitioner is aware, that requires a public utility providing water service (such as Indiana American) to secure Commission authority before it may *acquire* used and useful plant from another public water utility. For any such statute, identify the specific subsection.

**Information Provided:**

- a. Mr. Shimansky means the franchise, works or system owned by Wastewater One.
- b. Joint Petitioner cites to the following statutes: IC 8-1-2-83(a) provides: “No public utility, as defined in section 1 of this chapter, shall sell, assign, transfer, lease or encumber its franchise, works or system to any other person, partnership, limited liability company, or corporation . . . without the approval of the commission after hearing.” Further IC 8-1-2-84(c) provides “Any such public utility may purchase or lease the used and useful property, plant, or business, or any part thereof, of any other such public utility at a price and on terms approved by the commission.”

**DATA REQUEST**  
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**Cause No. 45461**

**Information Requested:**

Does Indiana American consider the cost associated with proving the reasonableness of its legal expenses for purposes of their being included in a “cost differential” to be a “cost of acquisition”? Please explain.

**Information Provided:**

Counsel for Indiana American does consider the reasonableness of arguments for and against acquisition approval of each individual acquisition case, as well as cases in general. Nevertheless, the OUCC has presented no evidence to rebut the presumption that the legal expenses are reasonable.

As Indiana American has indicated on several occasions in this case, the total incidental expenses and costs of an acquisition cannot be known until after the acquisition has actually closed. It is Indiana American’s position that while the *categories* of incidental expenses and costs to be incurred is an issue that can be addressed in a proceeding pursuant to IC 8-1-30.3, the reasonableness of the final amounts recorded as incidental expenses and costs obviously cannot be known in this proceeding and, if challenged, would likely be addressed in a subsequent rate case. If a party were to contest the reasonableness of the actual incidental expenses or costs of an acquisition in a subsequent rate case, the costs associated with defending against such a challenge would be recovered as a part of rate case expense.

**DATA REQUEST**  
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**and**  
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**Information Requested:**

Identify any outside or internal legal counsel that was involved in negotiating, drafting and reviewing the asset purchase agreement on behalf of Indiana American.

**Information Provided:**

David L. Pippen  
Director, Corporate Counsel  
Indiana American Water  
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