

COPY

STATE OF INDIANA  
BEFORE THE  
INDIANA UTILITY REGULATORY COMMISSION

FILED

APR 30 2004

INDIANA UTILITY  
REGULATORY COMMISSION

VERIFIED JOINT PETITION OF INDIANA GAS )  
COMPANY, INC., SOUTHERN INDIANA GAS )  
AND ELECTRIC COMPANY AND THE BOARD )  
OF DIRECTORS FOR UTILITIES OF THE )  
DEPARTMENT OF PUBLIC UTILITIES OF THE )  
CITY OF INDIANAPOLIS, AS SUCCESSOR )  
TRUSTEE OF A PUBLIC CHARITABLE TRUST, )  
d/b/a CITIZENS GAS & COKE UTILITY, )  
PURSUANT TO IND. CODE § 8-1-2.5 et. seq. )  
FOR APPROVAL OF AN ALTERNATIVE )  
REGULATORY PLAN WHICH WOULD )  
ESTABLISH A PILOT UNIVERSAL SERVICE )  
PROGRAM )

CAUSE NO. 42590

**AMENDED STIPULATION AND SETTLEMENT AGREEMENT**  
**BETWEEN CITIZENS GAS & COKE UTILITY AND**  
**THE INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR**

Joint Petitioner, the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis, as Successor Trustee of a Public Charitable Trust, d/b/a Citizens Gas & Coke Utility ("Citizens") and the Indiana Office of Utility Consumer Counselor ("OUCC") (collectively the "Settling Parties"), having been duly advised by their respective staff, experts and counsel, stipulate and agree that the following terms represent an alternative regulatory plan, and a fair, reasonable and just resolution of the issues involved in this proceeding relating to Citizens, subject to their incorporation into a non-appealable final order of the Indiana Utility Regulatory Commission (the "Commission") without modification or further condition that may be unacceptable to either party hereto ("Final Order"). If the Commission does not approve this Amended Stipulation and Settlement Agreement (the "Agreement") in its entirety, the Agreement

shall be deemed null and void and withdrawn, unless otherwise agreed to in writing by the Settling Parties.

## **1. TERMS AND CONDITIONS OF AGREEMENT**

Citizens will implement a pilot Universal Service Program (the “Program”) as soon as the necessary system development and administrative requirements are completed and approval of the Final Order is received.. Under the Program, Citizens’ low-income customers will pay a reduced rate for natural gas service, as described in the alternative regulatory plan set forth below. The amounts resulting from the bill reduction provided will be accumulated for recovery in a “Universal Service Fund” described in paragraph C below.

### **A. Phase-in of the Program**

The Program will be implemented in two separate phases. The net bill for low-income customers eligible to participate in the Program during Phase I (which will commence at the start of the Program and extend through November 30, 2004) will be 20% lower than the residential gas service bill. Phase II of the Program will run from December 1, 2004 through November 30, 2006. During Phase II, the net bill of eligible low income customers will be either 35%, 40% or 45% lower than the residential gas service bill, depending upon application of pre-determined, low-income energy assistance guidelines established jointly by the Family and Social Services Administration(“FSSA”) and Citizens, using prior heating season data. Such guidelines will be used to determine the applicable level of bill discount for each individual customer.

### **B. Eligibility Requirements and Enrollment**

1. *Eligibility.* In order for low-income customers to be eligible for assistance from the Program, the following criteria must be satisfied:

- a. The customer's gross household income must be at or below levels established for assistance from LIHEAP, the State's energy assistance program;
  - b. The customer must enroll in and qualify for assistance from LIHEAP;
  - c. The customer's account must be designated as residential gas service;
  - d. The customer must reside at the service address; and
  - e. There must be only one (1) account in the customer's name.
2. *Enrollment.* Eligible low-income customers will be enrolled in the

Program by existing Community Action Agencies through the LIHEAP application enrollment process.

### **C. Program Funding**

The difference between the bill that otherwise would be payable by Program eligible customers for residential gas service under Citizens' approved and authorized rates and the net bill to be paid by Program participants will be recovered first from LIHEAP, which will no longer be paid to customers, but instead will be directed to the "Universal Service Fund" (except for Phase I, during which customers already will have received LIHEAP funding), and by contributions Citizens will make from existing support programs described in paragraph I, below.

The funding will work as follows:

(a) all customer bill reductions will be placed into Citizens' Universal Service Fund as a balance to be recouped;

(b) LIHEAP funding with respect to participating customers will be applied against the balance;

(c) the funds from Citizens' existing support programs will be applied against the balance; and

(d) any remaining deficiency up to and including \$2.2 million will be offset through a contribution to the Universal Service Fund from Citizens' Customer Benefit Distribution ("CBD"). In the event additional funds are required, Citizens will utilize a portion of its weatherization funds (described in paragraph E) to make up the difference. At the expiration of the pilot period (i.e., November 30, 2006), Citizens reserves the right to propose a modification to, or change altogether, the above funding mechanism, and the OUCC reserves all rights to review, support or oppose any such proposals. In the event a funding deficit exists at the end of the Pilot Program, Citizens may create a regulatory asset and continue to utilize its CBD, or for good cause shown, propose an alternate method to recover such deficit, without carrying charges. In the event surplus funding exists at the end of the Pilot Program, then such surplus shall be included in Citizens' subsequent CBD or used to fund a new Universal Service Fund as agreed to by the Settling Parties and/or ordered by the Commission.

**D. Notice**

Citizens will provide notice describing the benefits and purposes of the Program and the funding mechanisms twice each year, which will be included in residential, commercial and industrial customers' bills. The notice will reflect that the Program is a result of an agreement between the OUCC and Citizens, which has been approved by the Commission as a Pilot Program.

**E. Weatherization of Low Income Homes**

Beginning in Phase II of the Program, Citizens will designate a certain amount of funds annually for use in weatherization projects. These funds will be used so that customers

enrolled in the Program with the highest annual usage can be referred to the State weatherization program, or Citizens' weatherization program. These funds will be reflected in the "Universal Service Fund" and dealt with for recovery in the same manner described in paragraph C.

**F. Service Terminations**

Citizens will continue to protect all eligible Program customers from service termination from December 1 through March 15, as provided in Ind. Code § 8-1-2-121.

**G. Pilot Program: Number of Participants**

The Program is based upon a certain anticipated number of customers to allow Citizens to better manage the necessary funding levels to meet customer and Program needs. Under the Pilot Program, Citizens is projecting an annual enrollment of approximately 16,000 low-income customers. Citizens will closely monitor the Program in order to manage and maintain reasonable and adequate Program funding levels.

**H. Reporting Requirements**

On or before May 31<sup>st</sup> of each year of the Pilot Program, Citizens will submit a report to the Commission and provide copies to the OUCC showing all necessary and pertinent information from the previous heating season, which will permit the Commission, the OUCC and Citizens to evaluate the performance and effectiveness of the Program in achieving its goals and purposes. Citizens will expeditiously respond to any additional pertinent requests for information regarding the Program from either the Commission or the OUCC.

**I. Contributions by Citizens to Support the Program**

Citizens will contribute in Phase I of the Program, \$576,000 from its CBD. In Phase II of the Program, Citizens will contribute each year \$950,000 from its various support programs currently in place for low-income customers (Warm Heart Warm Home Foundation ("WHWH")),

Weatherization Funds, GCA 50 Funds) and \$2,200,000 from its CBD. The funds for this pilot Program from the CBD would otherwise flow to Citizens' customers under the normal operation of the CBD, as approved in Cause No. 41605, Order dated December 11, 2002.

**J. Administrative Costs**

Citizens will absorb all costs associated with administering the Pilot Program. However, Citizens will continue to track (i.e. monitor and report) the administrative costs of the Pilot Program for review and consideration in future filings relating to the continuation of the Program after November 30, 2006. Citizens will retain 50% of any net savings resulting from reduced write-offs of bad debt. The remaining 50% of such net savings will be re-deposited into Citizens' Universal Service Fund.

For the purposes of estimating the Program write-off savings, Citizens will report, as its benchmark for the most recent fiscal year, LIHEAP customer write-offs and write-offs as a percent of total revenue. At the end of each subsequent fiscal year, Citizens will provide its LIHEAP customer write-offs and total revenue data. This will enable an estimate of write-off savings attributable to the Program by multiplying the benchmark write-off percent by the current year's total revenues and comparing the product to the actual write-offs experienced. Other reasonable evidence and estimates may also be considered. The Settling Parties will work together to reach agreement on the LIHEAP write-off savings attributable to the Program. In the event an agreement can not be reached, the Settling Parties agree to take the issue to the Commission for resolution.

The estimated write-off savings, if any, will be adjusted by the amount of associated Program administrative costs. Program administrative costs will be subject to audit and may include costs associated with necessary system changes; increased customer inquiry volumes;

company-funded training costs for Citizens and Community Action Agency support staff; and communication and education expenses to support the changes to the State's LIHEAP Program. In addition, Program administrative costs will include an amortization of the start up costs associated with the Program, including legal fees and consulting fees. These administrative costs will be amortized over the life of the Program and also subject to audit. The LIHEAP write-off savings net of the Program administrative costs will be multiplied by 50% to determine the amount to be re-deposited to the Universal Service Fund.

If, at the conclusion of the Program, a share of the net savings remains due to customers, Citizens agrees that such savings shall be provided to customers through the GCA or other appropriate means for transportation customers.

**K. Effect on Future Rate Cases**

In the event that during the term of the Pilot Program Citizens files a base rate case, such case shall not override the terms of this Settlement. In any such base rate case, Citizens' test year and pro forma expenses for the twelve months following the end of the test year shall neither include administrative costs related to the Program, nor any reduction to bad debt expense resulting from the Program. Rather, the administrative cost of the Program, and its likely favorable reduction of bad debt expense, will be considered through the net savings calculation provided for in paragraph J above.

**L. Benefits of Universal Service Program**

The Settling Parties believe the proposed ARP is in the public interest in that it will provide significant benefits to low-income gas customers by reducing their total gas bills and making winter heating bills more manageable. The Settling Parties expect the Program to eventually result in a significant increase in the number of weatherized homes in Indiana, thereby

promoting energy conservation and efficiency. In addition, the Program is expected to reduce the number of service terminations attributable to low-income customers' inability to pay for gas service. The Program will benefit the remainder of Citizens' customers by decreasing the number of defaults and untimely payments which ultimately result in higher uncollectible costs being imposed on the remainder of Citizens' customers.

The Settling Parties further believe the Commission's approval of the terms of the Program through an alternative regulatory plan, as envisioned by IC 8-1-2.5, et seq., is an appropriate way to timely address and ease the impact of increased, volatile natural gas prices and colder than normal weather on low income customers.

The Program also will result in rates and charges applicable to Citizens' low-income customers, which will promote efficiency. Because participating customers will continue to be responsible for the payment of a manageable portion of their gas bills, customers will have an incentive to monitor and reduce usage, if possible, and to better manage their monthly gas bills.

**M. Public Announcements and Marketing Materials**

Citizens and the OUCC shall agree on the form, wording and timing of any public/media announcement of this Agreement. Citizens and the OUCC may respond individually without prior approval of the other Settling Party to questions from the public or media, provided that such responses are consistent with such announcement and do not disparage the other Settling Party. The OUCC will have an opportunity to review and concur with Citizens' public announcements and marketing materials. Following Commission approval of the Program, Citizens will include information about the Program on its website and include a brief description of the OUCC, its role, contact information as well as provide a link to the OUCC's own web page. All marketing materials used by Citizens regarding the Program



should provide brief information about the OUCC, its role, as well as the relevant contact information.

**N. Presentation of this Agreement to the Commission**

The Settling Parties shall support this Agreement before the Commission and request that the Commission accept and approve this Agreement without any changes or conditions(s) unacceptable to either party. The Settling Parties agree that this Agreement shall be submitted to the Commission for approval on the condition that if the Commission fails to approve this Agreement in its entirety without any changes or condition(s) unacceptable to the Settling Parties, this Agreement and the supporting evidence shall be withdrawn, and the Commission shall conduct a second prehearing conference, set another procedural schedule and continue with the litigation of this Cause at the point where it was suspended or dismiss the proceeding, at the option of the Settling Parties.

**O. Effect and Use of Agreement**

1. There are no other agreements in existence between the Settling Parties relating to the matters covered by this Agreement which in any way affect this Agreement.
2. This Agreement shall not constitute nor be cited as precedent by any person or deemed an admission by either party in any other proceeding except as necessary to enforce its terms before the Commission, or any tribunal of competent jurisdiction on these particular issues. This Agreement is solely the result of compromise in the settlement process and, except as provided herein, is without prejudice to and shall not constitute a waiver of any position that either of the Settling Parties may take with respect to any or all of the issues resolved herein in any future regulatory or other proceeding.
3. The undersigned have represented and agreed that they are fully authorized to execute this Agreement on behalf of their designated clients, and their successors and assigns, who will be bound thereby.
4. In the event that the Commission enters a Final Order changing or modifying the terms of this Agreement, the Settling Parties shall indicate on the record

within twenty (20) days after entry of the Order whether such changes or modifications are acceptable.

5. The provisions of this Agreement shall be enforceable by either Settling Party, in any tribunal of competent jurisdiction, including but not limited to the Commission.
6. The communications and discussions during the negotiations and conferences attended by the Settling Parties, their attorneys, and their consultants have been conducted on the explicit understanding that said communications and discussions are or relate to offers of settlement and therefore are privileged. All prior drafts of this Agreement also are or relate to offers of settlement and are therefore privileged.
7. The Settling Parties shall not appeal or seek rehearing, reconsideration or a stay of any Final Order entered by the Commission approving the Agreement in its entirety without changes or condition(s) unacceptable to either Settling Party (or related orders to the extent such orders are specifically implementing the provisions of this Agreement) and shall support this Agreement in the event of any appeal or a request for rehearing, reconsideration or a stay by any person not a party hereto.

Accepted and Agreed on this 30<sup>th</sup> day of April, 2004.

BOARD OF DIRECTORS FOR UTILITIES  
OF THE DEPARTMENT OF PUBLIC  
UTILITIES OF THE CITY OF  
INDIANAPOLIS, AS SUCCESSOR  
TRUSTEE OF A PUBLIC CHARITABLE  
TRUST, d/b/a CITIZENS GAS & COKE  
UTILITY



By: Michael B. Cracraft (Atty. #3416-49)  
Steven W. Krohne (Atty. #20969-49)  
Hackman Hulett & Cracraft, LLP  
One Indiana Square, Suite 2400  
Indianapolis, IN 46204-2030

INDIANA OFFICE OF UTILITY  
CONSUMER COUNSELOR



By: Anne E. Becker  
Office of Utility Consumer Counselor  
Indiana Government Center North  
100 N. Senate Avenue, Room N501  
Indianapolis, Indiana 46204-2208