

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF CITIZENS WASTEWATER)
OF WESTFIELD, LLC FOR (1) AUTHORITY TO)
INCREASE RATES AND CHARGES FOR)
WASTEWATER UTILITY SERVICE AND) CAUSE NO. 44835
APPROVAL OF A NEW SCHEDULE OF RATES AND)
CHARGES; AND (2) APPROVAL OF CERTAIN) APPROVED:
REVISIONS TO ITS TERMS AND CONDITIONS)
APPLICABLE TO WASTEWATER UTILITY)
SERVICE)

ORDER OF THE COMMISSION

Presiding Officers:

James F. Huston, Commissioner

Loraine L. Seyfried, Chief Administrative Law Judge

On August 12, 2016, Citizens Wastewater of Westfield, LLC, (“Citizens Wastewater of Westfield” or “Petitioner”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) seeking: (i) authority to increase its rates and charges for wastewater utility service and approval of a new schedule of rates and charges; and (ii) approval of certain revisions to its terms and conditions for wastewater utility service. Also on August 12, 2016, Petitioner filed the direct testimony and attachments of the following witnesses:

- Aaron D. Johnson, Vice President of Strategy and Corporate Development of the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis d/b/a Citizens Energy Group (“Citizens Energy Group”)¹;
- Adrien M. McKenzie, Vice President of FINCAP, Inc.
- Sara J. Mamuska-Morris, Director of Treasury of Citizens Energy Group;
- Sabine E. Karner, Vice President and Controller of Citizens Energy Group; and
- Korlon L. Kilpatrick II, Director, Regulatory Affairs of Citizens Energy Group.

Petitioner also filed with the Commission multiple Monthly Major Projects Investments Updates describing the status of the two major projects for which major project rate base adjustments were made in Petitioner’s case-in-chief. The fifth and final Monthly Major Projects Investments Update was filed on January 18, 2017.

Pursuant to notice and as provided for in 170 IAC 1-1.1-15, a Prehearing Conference in this Cause was held in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis,

¹ On January 4, 2017, Petitioner filed its *Notice of Substitution of Witness and Submission of Revisions to Direct Testimony*, whereby it withdrew the Verified Direct Testimony of Aaron D. Johnson and substituted in its place the Verified Direct Testimony and Attachments of Jeffrey A. Willman, Vice President of Water Operations of Citizens Energy Group.

Indiana at 10:30 a.m., on September 21, 2016. Petitioner and the Indiana Office of Utility Consumer Counselor (“OUCC”) appeared and participated at the Prehearing Conference. On September 28, 2016, the Commission issued a Prehearing Conference Order establishing the procedural schedule for this Cause.

On November 3, 2016, at 6:00 p.m., the Commission held a field hearing in the Westfield Middle School cafeteria, 345 W. Hoover Street, Westfield, Indiana. In addition, the OUCC filed written comments from the public on December 5, 2016.

On December 5, 2016, the OUCC filed the direct testimony and attachments of the following witnesses:

- Margaret A. Stull, Senior Utility Analyst in the OUCC’s Water/Wastewater Division;
- Charles E. Patrick, Utility Analyst in the OUCC’s Water/Wastewater Division;
- James T. Parks, Utility Analyst II in the OUCC’s Water/Wastewater Division;
- Edward T. Rutter, Chief Technical Advisor in the OUCC’s Resource Planning and Communications Division; and
- Edward R. Kaufman, Chief Technical Advisor in the OUCC’s Water/Wastewater Division.

On December 13, 2016, the OUCC filed a *Motion for Protective Order with Respect to Information Included in the Attachments of James T. Parks*, which the Commission granted by Docket Entry dated December 15, 2016.

On December 14, 2016, the Presiding Offices issued a Docket Entry indicating that the Commission had received correspondence from Steve Lains, CEO of Builders Association of Greater Indianapolis, and Todd Burtron, City of Westfield Chief of Staff, which addresses matters currently pending in this proceeding. Copies of that written correspondence were tendered to the record pursuant to 170 IAC 1-1.5-6.

On January 4, 2017, Petitioner filed the rebuttal testimony and attachments of:

- Jeffrey A. Willman, Vice President of Water Operations;
- Adrien M. McKenzie;
- Sara J. Mamuska-Morris;
- Sabine E. Karner;
- Edward J. Bukovac, Corporate Development and Strategic Engineer for Citizens Energy Group; and
- Korlon L. Kilpatrick II.

Also on January 4, 2017, Petitioner filed a *Motion for Protective Order with Respect to Information Included in the Attachments to the Rebuttal Testimony of Edward J. Bukovac*, which the Commission granted by Docket Entry dated January 12, 2017.

On January 13, 2017, the Commission issued a Docket Entry requesting that Petitioner respond to certain requests for additional information. Petitioner filed its *Responses to January*

13, 2017 Docket Entry on January 18, 2017.

On January 20, 2017, the Settling Parties notified the Commission that they had reached an agreement with respect to all of the issues before the Commission, subject to preparation and execution of a written agreement. On January 23, 2017, in accordance with the terms of the Prehearing Conference Order, the Commission convened the evidentiary hearing in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana at 10:30 a.m. The hearing was continued on the record to March 13, 2017 for consideration of the settlement agreement and supporting testimony.

On February 22, 2017, Petitioner and the OUCC (collectively, the “Settling Parties”) filed a Stipulation and Settlement Agreement (the “Settlement Agreement”). Also on February 22, 2017, Petitioner filed the settlement testimony of Jeffrey A. Willman, Sabine E. Karner, and Korlon L. Kilpatrick II, and the OUCC filed the settlement testimony of Margaret A. Stull.

On March 6, 2017, the Commission issued a Docket Entry requesting additional information, which Petitioner responded to on March 8, 2017.

On March 13, 2017, the Commission held a settlement hearing in Room 222, PNC Center, 101 West Washington Street, Indianapolis Indiana. Petitioner and the OUCC appeared and participated in the hearing by counsel. No members of the general public appeared. During the hearing, Petitioner and the OUCC presented their evidence and offered their witnesses for cross-examination.

Based upon the applicable law, the evidence presented herein, and being duly advised, the Commission now finds:

1. Legal Notice and Commission Jurisdiction

Due, legal and timely notice of the filing of the Verified Petition in this Cause was published by Petitioner, as required by law. Due, legal and timely notice of the public hearings conducted in this Cause was caused to be published by the Commission.

Petitioner is regulated as a public utility by the Commission under Ind. Code ch. 8-1-2. The Commission has jurisdiction over Petitioner's rates and charges under Ind. Code § 8-1-2-42. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this Cause.

2. Petitioner’s Organization and Business

Petitioner is an Indiana limited liability company with its principal office located at 2020 North Meridian Street, Indianapolis, Indiana 46202. Petitioner’s sole membership interest is owned by Citizens Westfield Utilities, LLC (“CWU”), which is a subsidiary of Citizens By-Products Coal Company d/b/a Citizens Resources. Citizens Energy Group owns the stock of Citizens Resources. Petitioner owns, operates, manages and controls plant, property and equipment used and useful to provide wastewater utility service to more than 11,000 customers in and around the City of Westfield, Indiana.

3. Test Year

Petitioner requested that the twelve (12) months ending December 31, 2015, be used as the test year, adjusted for changes that are fixed, known, and measurable for ratemaking purposes and that occur within the twelve (12) months following the end of the test year. Petitioner further requested that the rate base cutoff reflect used and useful property at the end of the test year updated for the major projects described in the Verified Petition and placed in service after December 31, 2015. We find the December 31, 2015 test year, as adjusted during the subsequent 12-month period, is sufficiently representative of Petitioner's normal utility operations to provide reliable data for ratemaking purposes. We further find that the rate base cutoff shall reflect used and useful property at the end of the test year updated for the major projects described in the Verified Petition and placed in service after December 31, 2015.

4. Background and Relief Requested

Petitioner's current base rates and charges were approved by the Commission in Cause No. 44273 by Order issued November 25, 2013, which approved Petitioner's acquisition of the wastewater utility assets formerly owned by the City of Westfield, Indiana. In its Order in Cause No. 44273, the Commission also authorized Petitioner's use of the rates and charges for services previously approved by the Common Council for the City of Westfield. Petitioner's current schedule of rates and charges were placed into effect on March 22, 2014 contemporaneous with closing of the acquisition of the wastewater utility assets in accordance with the Order in Cause No. 44273.

In this case, Petitioner proposes to cancel its existing schedule of rates and charges for sewage disposal service and to file with the Commission, in lieu thereof, a new schedule of rates and charges which will enable it to realize net operating income adequate to provide safe, reliable, efficient and economical sewage disposal service and an opportunity to earn a reasonable return on pro forma rate base. Petitioner also proposes certain revisions to its terms and conditions for sewage disposal service.

5. Petitioner's Evidence

Petitioner's witness Jeffrey A. Willman described the affiliation among Citizens Energy Group, its subsidiary Citizens Resources, its subsidiary CWU and Petitioner. Mr. Willman provided an overview of Petitioner's wastewater utility business, and sponsored the Verified Petition.

Mr. Willman explained that Petitioner's current base rates and charges were approved by the Commission in its November 25, 2013 Order in Cause No. 44273, and thereafter, Petitioner filed compliance rate schedules that became effective contemporaneously with Petitioner's closing of its acquisition of the wastewater utility assets from the City of Westfield on March 22, 2014. Mr. Willman testified that since the acquisition, Petitioner has invested over \$8.4 million in the wastewater utility's collection system, lift stations and treatment plant to meet the needs of the growing Westfield community.

Mr. Willman stated that Petitioner's currently authorized rates and charges are insufficient to allow it to earn a reasonable return on its utility plant. Mr. Willman stated that Petitioner requests approval of an increase to total revenues of \$2,412,841 or 25.29%. Mr. Willman also described several steps Petitioner has taken to reduce costs, increase efficiency and mitigate the impact of a rate increase on its customers, including proposing alternatives to IDEM's Technical Standards for manhole spacing on the 156th Street interceptor sewer, and redesigning and phasing the construction of the interceptor sewer to leverage developers' advances for construction and closely timing the infrastructure investments with the developments. In addition, Mr. Willman described certain customer service improvements Petitioner has implemented, including a computer based system for obtaining sewer connection permits, and improved bill payment methods.

Mr. Willman next explained the two components of Petitioner's pro forma rate base that he indicated were agreed to and stipulated in the Settlement Agreement reached in Cause No. 44273. First, Mr. Willman stated that the OUCC and Petitioner agreed the net original cost of the wastewater utility plant that existed as of December 31, 2011, and was conveyed to Petitioner, was \$30,530,000. After reduction of accumulated depreciation using a 2.5% depreciation rate, Mr. Willman stated the pro forma rate base amount for utility plant as of December 31, 2011 is \$27,477,000. Mr. Willman testified that the second component of rate base the OUCC and Petitioner agreed to in Cause No. 44273 is referred to as a "fair value increment," and is stipulated to be \$17,040,000. Mr. Willman stated that the unamortized portion of the agreed fair value increment included in Petitioner's pro forma rate base in this proceeding is \$16,283,048.

Mr. Willman also identified two capital improvement projects that qualify as "major projects." The first project is referred to as the 156th Street Interceptor Project, built to provide service to a portion of Petitioner's service territory, and consisting of approximately 5,000 lineal feet of PVC sanitary sewer lines and a new lift station with two 15 horsepower pumps. The second project was described by Mr. Willman as the Downtown Lift Station Project, which consists of the construction of a new lift station with three 20.1 horsepower pumps and approximately 5,200 lineal feet of 16-inch diameter force main, as well as upgrades to three 84.5 horsepower pumps at the Washington Woods lift station. Mr. Willman stated that the Downtown Lift Station and the 156th Street Interceptor were placed in service on February 1, 2016, and May 10, 2016, respectively, and both are used and useful for the provision of wastewater utility service to Petitioner's customers.

Adrien M. McKenzie offered his assessment of Petitioner's cost of equity. Mr. McKenzie also provided an overview of fair value ratemaking and the development of a reasonable fair rate of return on fair value ("RFV") applicable to the fair value increment associated with Petitioner's wastewater utility operations. Mr. McKenzie opined that based upon the results of five methods – the discounted cash flow ("DCF") model, the Capital Asset Pricing Model ("CAPM"), the empirical form of the CAPM ("ECAPM"), an equity risk premium approach, and the expected earnings approach – the cost of equity range for Petitioner is 9.2% to 10.7%.

Mr. McKenzie further stated that in his opinion, 10.7% is a conservative estimate of investors' required cost of equity for Petitioner. Mr. McKenzie concluded that a COE from the upper end of the range is warranted because of the uncertainties associated with Petitioner's weaker credit standing and relatively small size. Mr. McKenzie likewise recommended that an RFV equal to the COE, or 10.7% be applied to the fair value increment. Mr. McKenzie also concluded that Petitioner's actual capital structure of 75.14% common equity financing represents a reasonable basis on which to establish Petitioner's return.

Sara J. Mamuska-Morris testified that Petitioner is using its end-of-test-year capital structure for purposes of setting rates in this proceeding, and that as of December 31, 2015, Petitioner's actual capital structure was 75.14% common equity, and 24.86% long-term debt. Ms. Mamuska-Morris explained that Petitioner's long-term debt financing was established upon the acquisition of the utility per the Commission's Order in Cause No. 44273. Ms. Mamuska-Morris also indicated that Petitioner had accessed a portion of its revolving credit facility as of December 31, 2015, but this short-term debt was not included in Petitioner's capital structure because it is used for day-to-day operating needs and construction work in progress, rather than financing long-term assets.

Ms. Mamuska-Morris testified that Petitioner's overall weighted cost of capital as of December 31, 2015, assuming a cost of equity of 10.7% as recommended by Mr. McKenzie and applying a cost of long-term debt of 2.8918%, is 8.76%. This percentage consists of a weighted cost of capital of 8.04% for common equity, and 0.72% for long-term debt.

Sabine E. Karner sponsored the test year financial statements for Petitioner. Ms. Karner also sponsored the test year allocation of Shared Services costs to Petitioner. Ms. Karner described how Shared Services are assigned among the various Citizens Energy Group business units and the process used for the allocation. Ms. Karner testified that Petitioner was allocated Shared Field Services at a rate of 0.69% for the test year, and was allocated Corporate Support Services at a rate of 1.32% for the test year.

Ms. Karner next discussed Petitioner's pro forma adjustments related to certain operations and maintenance ("O&M") expenses. Ms. Karner testified that Petitioner's test year level of O&M expenses, taxes excluding utility receipts tax, and depreciation is not representative of going-level costs of \$6.8 million for these same expenses. Ms. Karner described certain key adjustments, including an approximate: (i) \$47,000 increase to employee costs, (ii) \$195,000 increase to a variety of non-labor O&M expenses, and (iii) \$682,000 increase in depreciation expense. Ms. Karner concluded that the proposed pro forma adjustments are reasonable.

Ms. Karner next described Petitioner's total rate base of \$55,188,021. Ms. Karner sponsored Attachment SEK-4, which set forth in detail how the proposed rate base of \$55,188,021 was determined. Also on SEK-4, Ms. Karner calculated Petitioner's return after applying the weighted average cost of capital of 8.76%. The resulting return is \$4,834,471.

Korlon L. Kilpatrick II described the overall revenue requirement for Petitioner. Mr. Kilpatrick sponsored Attachment KLK-1, which was an overview of Petitioner's revenue

requirement. According to Mr. Kilpatrick, Petitioner's pro forma revenue requirement totals \$11,952,562. Mr. Kilpatrick stated that Petitioner requires an increase in total revenues of \$2,412,841 or 25.29% (the equivalent of an increase in sales revenue of 25.42 percent) in order to provide it with an opportunity to earn an operating income of \$4,834,471.

Attachment KLK-1 also set forth a detailed description of Petitioner's proposed accounting adjustments. Mr. Kilpatrick explained the various operating revenue adjustments, including adjustments to test year billing instances and sales volumes to arrive at pro forma billing instances and sales volumes. Mr. Kilpatrick also explained the pro forma adjustments to certain other operating expenses. Specifically, Mr. Kilpatrick provided support for: (i) an increase of \$18,434 to adjust net write-offs, (ii) an increase of \$63,500 for a three-year amortization of rate case expense, and (iii) an increase of \$11,070 to the annual IURC fee. Mr. Kilpatrick next sponsored Attachment KLK-2, illustrating how Petitioner's proposed rates were derived, and also testified regarding the determination of the minimum treatment charges and the monthly unmetered charge.

Mr. Kilpatrick also described the proposed changes to Petitioner's Terms and Conditions for Sewage Disposal Service. Mr. Kilpatrick testified that Petitioner is reorganizing its Terms and Conditions for Sewage Disposal Service as a part of a larger initiative to standardize the terms and conditions among the regulated utilities. Mr. Kilpatrick also explained that Petitioner is also proposing to add Rule 12.3, which allows periodic inspection of customers by the Petitioner, to address Petitioner's obligations under the federal Clean Water Act with respect to industrial users.

6. OUCC's Evidence

OUCC witness Margaret A. Stull discussed the overall results of the OUCC's analysis of Petitioner's proposed 25.42% across-the-board rate increase. Ms. Stull testified that the OUCC believes an overall rate decrease of 8.90% reflects Petitioner's revenue requirement and will allow Petitioner the opportunity to earn a fair return on its investment. Ms. Stull explained that the primary differences between Petitioner's and the OUCC's determination of the revenue requirement relate to: (i) the value of original cost rate base, (ii) the appropriate weighted average cost of capital, (iii) the treatment of the fair value increment, and (iv) pro forma net operating income.

Ms. Stull presented the OUCC's proposed revenue requirement and accounting schedules. Ms. Stull first testified that Petitioner's presentation of its rate base made it difficult to conduct a review and analysis. Ms. Stull then discussed her recommendation of an original cost rate base of \$29,500,522. Ms. Stull testified that the \$9,404,451 difference in original cost rate base is primarily due to (1) the OUCC's exclusion of Petitioner's major projects, and (2) the OUCC's proposed additional accumulated depreciation on assets acquired at December 31, 2011. Ms. Stull further stated that the OUCC proposed an \$888,485 reduction to the return on the fair value increment due to the OUCC's application of a fair rate of return compared to Petitioner's application of its proposed weighted average cost of capital. In addition, Ms. Stull testified that the OUCC disagreed with the inclusion in rate base of the 156th Street Interceptor major project and the inclusion of most of the costs of the Downtown Lift Station project. Ms.

Stull also stated that she disagreed with Petitioner's calculation of accumulated depreciation, as well as with Petitioner's inclusion of accumulated amortization of contributions-in-aid of construction ("CIAC") recorded since the acquisition of Westfield's wastewater assets.

Ms. Stull next discussed and supported various adjustments to Petitioner's operating revenues, operating expenses and taxes other than income. Ms. Stull indicated that the OUCC was proposing a \$614,951 increase to net operating income. Ms. Stull stated that the proposed adjustment reflect test year customer growth. She also discussed an additional adjustment to other operating revenues to include Petitioner's share of disconnection fees collected and recorded by Petitioner. Ms. Stull also explained the OUCC's position on adjustments to operating expenses and taxes other than income.

Ms. Stull recommended that Petitioner conduct a cost of service and rate design study in its next rate case. Ms. Stull recommended that the cost of service study include a decrease to the rate charged to unmetered residential customers. Ms. Stull stated that Petitioner's monthly unmetered rate is based upon 9,000 gallons, which does not reflect actual usage. Ms. Stull proposed that unmetered customers be billed based on estimated monthly water consumption of no more than 5,000 gallons.

Ms. Stull explained Petitioner currently charges no fees to developers or customers for new connections to its wastewater system. Ms. Stull proposed that, in order to ensure that new customers help offset the capital costs paid prior to the connection date, new customers be charged a connection fee. Ms. Stull recommended that Petitioner file a request, under the Commission's thirty day filing process, to add a connection fee for each meter size to its tariff within 60 days of the issuance of a final order in this Cause.

Ms. Stull further recommended that the final Order in this Cause direct Petitioner to implement a \$2,100 system development charge to its tariff. Ms. Stull stated that the rationale behind system development charges and other infrastructure charges is that "growth should pay for growth." In other words, Ms. Stull stated that customer growth should pay for the additional capacity needed to serve that growth rather than requiring existing customers to pay for growth through their utility rates. Ms. Stull used the equity buy-in methodology to derive the proposed \$2,100 system development charge.

Finally, Ms. Stull discussed Petitioner's proposed changes to its Terms and Conditions. Ms. Stull explained that the OUCC rejected proposed Rule 12.3, as it is not limited to industrial customers, nor is it related to NPDES permits, despite Mr. Kilpatrick's testimony. Ms. Stull claimed it is too broad in scope and should be rejected.

Charles E. Patrick addressed various pro forma operating expenses. Mr. Patrick disagreed with the percentage of short term incentive plan ("STIP") Petitioner proposed to apply to certain employees. Mr. Patrick proposed that an 8.93% STIP percentage be applied to both executives and non-executives, resulting in an increase to test year payroll expense of \$34,329. Mr. Patrick also proposed a lower purchased power adjustment than that advanced by Petitioner, based upon the OUCC's recommendation to exclude the Downtown Lift Station and 156th Street Interceptor project from rate base. Mr. Patrick also proposed that rate case expenses be shared

between ratepayers and Petitioner's parent company because Mr. Patrick contended both will receive appreciable benefits from the filing of this rate case. Mr. Patrick, therefore, instructed OUCC witness Stull to include one-half (\$95,250 or an annual expense of \$31,750) of Petitioner's proposed rate case expense in her presentation of Petitioner's revenue requirements.

James T. Parks described Westfield's wastewater facilities consisting of (1) the original wastewater stabilization lagoons converted in 1986 to controlled discharge lagoons for wet weather flows, (2) the Carmel Wastewater Treatment Plant, of which Westfield purchased 2.14 MGD or 17.83% of its treatment capacity through its 1986 wastewater regionalization with Carmel, and (3) the 3.0 MGD Westside Wastewater Treatment Plant. Mr. Parks noted Petitioner did not purchase the lagoons from Westfield. Mr. Parks recommended the Commission exclude all but \$500,000 of the \$5,695,562 in costs for two major projects proposed by Petitioner: (1) the Downtown Lift Station and force main project and (2) the 156th Street Interceptor project (Phase 1). Mr. Parks stated these projects were driven by Petitioner's decision to reduce or eliminate the wastewater flows it sends to the City of Carmel's wastewater system. Mr. Parks stated that the decision to reduce flows to Carmel was not based on a cost analysis or study to determine whether eliminating flows to Carmel was cost effective. Mr. Parks estimated that Petitioner's current cost to convey and treat wastewater within its own system, excluding capital costs, is about 50% higher than Petitioner's current cost to send wastewater to Carmel.

Mr. Parks testified that instead of constructing the Downtown Lift Station for \$2,413,028, the most cost-effective option identified by Petitioner's consultant, HNTB Corporation, would have been to acquire Westfield's lagoons and install disinfection facilities. Mr. Parks further testified the lagoons discharged infrequently when infiltration and inflow in Westfield's older sewers caused peak wet weather flows. Mr. Parks recommended Petitioner develop and implement an infiltration and inflow reduction program.

Mr. Parks stated that after Petitioner completed the Downtown Lift Station project in February 2016, its flows to Carmel dropped by nearly one-third to an average of 1.07 MGD and that flows treated at its Westside Wastewater Treatment Plant ("WWTP") increased 44% to 2.51 MGD. Mr. Parks noted that based on 2016 flows, the unused reserved capacity at the Carmel WWTP, available to Petitioner, exceeds 1 MGD. Mr. Parks recommended that Petitioner maximize its wastewater flows to Carmel as the least cost option. He stated that maximizing flows to Carmel will delay the need to expand the Westside WWTP and eliminate future capital costs to construct new lift stations, sewers, and force mains to re-route flows away from Carmel. Mr. Parks testified that capital improvements required to route flows away from Carmel will subject Petitioner's customers to further rate increases and that such improvements should be considered unnecessary and imprudent. Mr. Parks further recommended Petitioner investigate the cost of increasing wastewater flows to the Carmel system and investigate purchasing additional capacity in Carmel's wastewater system beyond its current allocation of 2.14 MGD.

Mr. Parks testified that based in part on its decision to reduce or eliminate flows it sends to Carmel, Petitioner appears to be planning to double the Westside WWTP capacity from 3.0 MGD to 6.0 MGD with provision to double capacity again to 12.0 MGD. Mr. Parks stated that Petitioner hired Wessler Engineering to prepare a WWTP Facility Expansion Plan and has

obtained from the Indiana Department of Environmental Management (“IDEM”), Preliminary Effluent Limits for both a 6.0 MGD and 12.0 MGD plant expansion.

Mr. Parks also described the 156th Street Interceptor project, which is the first phase of a 16,575 feet long interceptor sewer. Mr. Parks testified that the 156th Street Interceptor project also includes a temporary lift station. Mr. Parks noted that based on his review of Record Drawings, there appears to be no active sewer tied into the 156th Street Interceptor and the interceptor and lift station were not receiving wastewater. Mr. Parks recommended that the Commission disallow from rate base the entire \$3,291,158 cost of the 156th Street Interceptor-Phase 1 project. Mr. Parks finally recommended the Commission require Petitioner to develop and implement an asset inventory system to allow it to identify and inventory all sewers and force mains by pipe type, age, condition, diameter, and length and to include an inventory listing and condition assessment of all its lift stations.

Edward T. Rutter did not agree with Petitioner’s proposed capital structure. Mr. Rutter stated Petitioner’s proposed “common equity” component of the capital structure does not reflect the \$44.3 million capital contribution to Petitioner from its parent, CWU. Mr. Rutter asserted that this \$44.3 million contribution should be treated as preferred stock and not common equity because Petitioner has a financial obligation to pay dividends to CWU under Petitioner’s Amended and Restated Operating Agreement. Mr. Rutter also pointed out that Fitch “believes that the utility’s legal requirement to declare and pay dividends to the holding company adds notable risk to the bondholders.” Mr. Rutter recommended a capital structure of 3.03% common equity, 72.11% preferred equity, and 24.86% long-term debt. Mr. Rutter stated the appropriate cost rate for preferred stock should be 6.61%.

Edward R. Kaufman provided testimony regarding the OUCC’s proposed cost of equity. Mr. Kaufman estimated Petitioner’s cost of equity to be 8.85%, 185 basis points less than Mr. McKenzie’s 10.7% estimate. Mr. Kaufman applied both a DCF and CAPM analyses to arrive at his cost of equity estimate. Mr. Kaufman testified that his DCF model produced a range of estimates from 8.29% to 8.69%, and his CAPM analysis produced a range of estimates from 7.58% to 8.47%. Mr. Kaufman recommended a cost of equity that was 16 basis points above the high point of his models’ range because the cost of equity for the water/wastewater industry is currently above the midpoint of his overall range, and Petitioner is smaller than companies in his water proxy group. Mr. Kaufman stated that his 8.85% cost of common equity results in a weighted cost of capital of 5.7535%.

Mr. Kaufman explained that the difference between his and Mr. McKenzie’s proposed cost of equity is attributed mainly to Mr. McKenzie’s selection of a cost of equity at the high end of his estimated range, his use of size adjustments, his reliance on projected bond yields, and his use of the ECAPM and Expected Earnings model. Mr. Kaufman pointed out Mr. McKenzie asserts current capital costs are not representative of what is likely to prevail over the long-term and stated that this also leads to a higher cost of equity estimate. Mr. Kaufman noted Mr. McKenzie has forecasted interest rate increases in other cases despite a general decline in interest rates since 2014. Mr. Kaufman considered Mr. McKenzie’s use of forecasted interest rates to skew his results.

Mr. Kaufman next addressed Petitioner's request to recover its fair value increment in this proceeding. After reviewing Indiana law regarding fair value ratemaking, Mr. Kaufman states his disagreement with Mr. McKenzie's proposal to apply Petitioner's cost of capital to its fair value increment. Contrary to Mr. McKenzie's position, Mr. Kaufman stated that it is appropriate to remove the effect of historical inflation to estimate a fair rate of return. Mr. Kaufman also explained to avoid double counting the amount of inflation removed from the fair rate of return should correspond to the historical inflation included in the fair value rate base. This resulted in a reduction of weighted cost of capital of 2.45%. This resulted in Mr. Kaufman's recommended fair rate of return of 3.3035% (5.7535% minus 2.45%) to be applied to Petitioner's fair value increment.

7. Petitioner's Rebuttal Evidence

Petitioner's witness Willman testified that, in his opinion, the OUCC's proposed rate decrease is unreasonable. According to Mr. Willman, the two most significant areas of disagreement are cost of capital and rate base. Mr. Willman stated that the OUCC's proposed 5.7% cost of capital for original cost rate base and 3.3% cost of capital for its unamortized amount of the stipulated fair value increment are not fair, reasonable, or logical. Moreover, the OUCC's proposed rate base in this case is approximately \$1.8 million less than the total amount the OUCC stipulated Petitioner should be allowed to earn a return on for plant in service four years ago – despite the approximately \$10.6 million of capital investments that have been made in the wastewater system over the last four years. Mr. Willman stated that the differences related to cost of capital and rate base account for approximately 79% of the difference between the parties' proposed revenue adjustments.

Mr. Willman stated that the OUCC's proposal in this case is inconsistent with the Commission-approved stipulations made by the OUCC and Petitioner in Cause No. 44273. In Cause No 44273, the parties stipulated that the net original costs of the wastewater utility plant as of December 31, 2011 would be deemed to be \$30,530,000, and Petitioner should be allowed to earn a return on, but not of, a fair value increment of \$17,040,000. Mr. Willman testified that these two stipulations were negotiated together and designed to provide Petitioner an opportunity to earn a fair return on \$47,570,000. Nonetheless, OUCC witness Stull argued that the combined total of the stipulated rate base amounts has shrunk to \$38,554,882 over the last four years. Mr. Willman recommended the Commission reject the OUCC's proposals and grant Petitioner the relief sought.

Petitioner's witness McKenzie responded to OUCC witness Kaufman's testimony regarding cost of equity and related issues. Mr. McKenzie testified that Mr. Kaufman's COE recommendation of 8.85% is below any reasonable level. By way of comparison, Mr. McKenzie testified that in 2015 and 2016, ROEs for Indiana water and wastewater utilities fell in the range of 9.50% to 10.50%. Mr. McKenzie stated the OUCC's COE recommendation would inflict serious damage on Petitioner's financial integrity and deny any opportunity to earn a rate of return.

Mr. McKenzie stated that Mr. Kaufman's COE analysis contained several technical flaws, including: (i) the failure to remove illogical DCF results stemming from unrealistically

low growth rates, (ii) the improper incorporation of historical data in his CAPM, and (iii) the failure to include any checks of reasonableness on his DCF results with approaches such as ECAPM, utility risk premium, expected earnings, or non-utility DCF. Mr. McKenzie also said Mr. Kaufman's criticism of Mr. McKenzie's RFV of fair value increment analysis was flawed due to a misapplication of the relevance of inflation.

Finally, Mr. McKenzie addressed OUCC witness Rutter's capital structure proposal, including his reclassification of \$44.3 million from common equity to preferred stock. Mr. McKenzie testified that the fact that Petitioner has a parent entity does not alter the standards that underlie the determination of a fair return on invested capital. Mr. McKenzie said the required rate of return is determined by the risk of the investment, not the manner in which the investment is financed. According to Mr. McKenzie, Mr. Rutter's recommendation is not consistent with financial policies in the utility industry, nor is it consistent with what the OUCC has previously regarded as representative for a water utility such as Petitioner, and as such the Commission should summarily reject it.

Petitioner's witness Mamuska-Morris responded to OUCC witness Rutter's testimony concerning Petitioner's capital structure. Ms. Mamuska-Morris stated that the OUCC's recommendation is not consistent with Petitioner's actual capital structure and that Petitioner does not have any preferred stock outstanding. Moreover, Ms. Mamuska-Morris stated that the Petitioner's capital structure is similar to that presented in Cause No. 44273 as outlined in both the Settlement Agreement and final Order in that proceeding. Ms. Mamuska-Morris stated that the provision relied upon by Mr. Rutter to conclude that Petitioner has a financial obligation to pay dividends to CWU is not an atypical provision required by third party lenders. Moreover, Ms. Mamuska-Morris noted that Petitioner's dividends to its parent have not approached a level equal to the parent's debt obligation to third party lenders. Ms. Mamuska-Morris concluded that there is no guarantee the actual revenues and expenses used to determine the revenue requirements of Petitioner will occur in reality once the rates are implemented which means the actual dollars of return may well fall short of the authorized return amount.

Petitioner's witness Karner testified that in her view, Petitioner's presentation of rate base used the most straight-forward approach, considering its multiple components. Ms. Karner stated there was no agreement between the parties in Cause No. 44273 as to the amount of CIAC as of December 31, 2011. Ms. Karner stated that, in her view, Petitioner should be able to recover the depreciation expense on pre-2012 plant without making any adjustment to the stipulated amount of \$30,530,000 for accumulated depreciation on CIAC property. Ms. Karner stated that she believes this conclusion is consistent with the settlement agreement in Cause No. 44273 and previous pronouncements by the Commission.

Ms. Karner further stated that OUCC witness Patrick's Payroll and Payroll Taxes calculations are flawed. Ms. Karner recommended those adjustments be rejected. Ms. Karner also recommended that the Commission: (i) accept her rebuttal adjustment to purchased power in lieu of the OUCC's total adjustment.; (ii) based upon the rebuttal testimony of Mr. Bukovac, reject the OUCC's contingent adjustment to purchased wastewater treatment expense related to allowing the Downtown Lift Station in rate base; (iii) accept her rebuttal adjustment to normalize expenses in lieu of the OUCC's various adjustments; (iv) accept her rebuttal adjustment to out-

of-period expenses; (v) accept the OUCC's adjustment to non-recurring expenses; (vi) reject the OUCC's adjustment to depreciation expense; and (vii) accept the OUCC's adjustment to property tax expense

Petitioner's witness Edward ("Ed") J. Bukovac responded to the recommendations made by Mr. Parks regarding Petitioner's capital projects and operations. Mr. Bukovac disagreed that: (i) Petitioner has decided to eliminate sending flows to the City of Carmel's WWTP; (2) that it is less expensive to send flows to Carmel than it is to treat them at Petitioner's Westside WWTP; (iii) that the Major Capital Projects will lead to the premature expansion of the Westside WWTP; and (iv) that the Major Capital Projects were driven by Petitioner's decision to eliminate flows to Carmel. Mr. Bukovac stated that Mr. Parks ignores Petitioner's stated intentions with respect to Carmel flows and the large amount of information supporting the Major Capital Projects. Instead, Mr. Bukovac stated that Mr. Parks cherry-picks a few sentences in some engineering reports to suit his narrative that Petitioner is seeking to end flows to Carmel in an effort to unnecessarily expand its rate base and these projects are the first step in that direction. Mr. Bukovac stated that, to be clear, Petitioner plans to maximize the use of all of its wastewater treatment options, including the Carmel capacity, before expanding the Westside WWTP.

However, Mr. Bukovac noted that the variable treatment charges for Carmel flows are significantly higher than the variable treatments costs for the Westside WWTP. Therefore, base load flows should be treated at the Westside WWTP as much as possible and the Carmel capacity should be used for load fluctuations, peak flows and growth.

Mr. Bukovac stated significant growth in Westfield as the primary driver of the Major Capital Projects. Mr. Bukovac testified the purpose of the Downtown Lift Station is to allow Petitioner to disconnect from the lagoon system because of the inherent environmental and financial liabilities associated with the lagoons. Mr. Bukovac asserted that if Petitioner had acquired the lagoons, it would have acquired a liability, not an asset, which would have resulted in more costs in the long run. Mr. Bukovac stated that the lagoons are essentially open septic tanks, and as such, present numerous safety, environmental, and other risks.

Mr. Bukovac also disagreed with Mr. Patrick's adjustment to wholesale treatment costs from the City of Carmel. Mr. Bukovac stated that there are a variety of reasons that the variables impacting Carmel flows are not fixed, known, and measurable. The frequency, intensity and volume of rain and snowfall are very difficult to predict from month to month let alone year to year. Another driver is growth in the system, particularly in the sanitary basins that would be conveyed to the Westfield WWTP.

Mr. Bukovac finally addressed Mr. Parks' recommendation that Petitioner conduct an inflow and infiltration ("I&I") reduction program. Mr. Bukovac stated Petitioner already has started to conduct an I&I program. Therefore, no additional requirements should be imposed on Petitioner.

Petitioner's witness Kilpatrick testified that while he disagreed with most of Ms. Stull's proposed customer growth adjustments, he accepted her adjustments related to test year customer growth for metered and unmetered residential customers. Mr. Kilpatrick also agreed that an adjustment should be made to operating revenues for reconnection fees. Because Mr. Kilpatrick

did not accept all of Ms. Stull's customer growth adjustments, he also disagreed with her adjustments relating to certain expense items that are driven by the amount of Petitioner's operating revenues: IURC Fees, Indiana Utility Receipts Tax expense, bad debt expense and the revenue conversion factor. In addition, Mr. Kilpatrick disagreed with Ms. Stull's contention that Petitioner has not provided the information necessary to determine how much of its proposed adjustments are related to the rate increase and how much are related to customer growth.

Mr. Kilpatrick also disagreed with Mr. Patrick's proposal that Petitioner's parent company share its rate case expenses. Mr. Kilpatrick cited Commission Orders where such an approach had been rejected and testified that Mr. Patrick's argument is virtually identical to those that have been rejected time and again by the Commission. In Mr. Kilpatrick's opinion, the OUCC's proposal continues to amount to an arbitrary disallowance of known, fixed and measurable rate case expense. Mr. Kilpatrick further objected to Mr. Patrick's other recommendations regarding rate case expenses.

Mr. Kilpatrick stated that Petitioner is willing to engage a consultant to perform a cost of service study as part of its next rate case, as proposed by OUCC witness Stull, as long as the cost of conducting such a study would be recoverable as a rate case expense in that rate case. Mr. Kilpatrick further stated that the estimated water consumption for unmetered customers would be considered in that cost of service study. However, Mr. Kilpatrick noted that Petitioner may recommend a different monthly consumption level than 5,000 gallons depending on usage characteristics at the time.

Mr. Kilpatrick disagreed with Ms. Stull's proposal that a System Development Charge be imposed. Mr. Kilpatrick stated there are a number of complex issues at play in the implementation of a System Development Charge. Mr. Kilpatrick stated that he suspected that developers and families purchasing homes that must absorb the cost of a System Development Charge might have a different perspective than the OUCC. Mr. Kilpatrick also suggested that implementation of a System Development Charge could hinder development in and around the City of Westfield. Mr. Kilpatrick noted that both the Builders Association of Greater Indianapolis and Office of the Mayor of the City of Westfield have submitted letters in this Cause that are supportive of Petitioner. Their level of participation in this Cause may have been different had Petitioner proposed to implement a System Development Charge. Mr. Kilpatrick stated that if Petitioner were to impose a System Development Charge, the correct charge would be \$2,000.

Mr. Kilpatrick further stated that he believes a connection charge is unnecessary. Mr. Kilpatrick noted that the only direct cost supplied by the Petitioner for a customer connection is the cost of the meter, meter setting and meter vault on the water connection, which cost is an offset to any revenue allowance paid back to the developer. In other words, Mr. Kilpatrick stated that the developer is also paying for the meter.

Mr. Kilpatrick stated that Petitioner's proposed Rule 12.3 was designed to give Petitioner access to the facilities of Industrial Customers to ensure that the facilities are being operated in conformance with applicable Federal, State and local laws and permits. Absent the Rule, Mr. Kilpatrick indicated that Industrial Customers that discharge prohibited substances into the

wastewater system or that do not comply with pretreatment standards can argue that they do not have to grant Petitioner's employees access to their facilities to ensure compliance. Mr. Kilpatrick stated that this jeopardizes the ability of Petitioner to comply with its National Pollutant Discharge Elimination System ("NPDES") permit and provide safe and dependable wastewater service.

8. Settlement Agreement

On January 20, 2017, the Settling Parties notified the Commission they had reached an agreement with respect to all of the issues before the Commission, subject to the preparation and execution of a written agreement. On February 22, 2017, the Settling Parties filed the Settlement Agreement. The following summarizes the terms of the Settlement Agreement:

a. Test Year and Rate Base Cutoff. The Settling Parties agreed the period to be used for determining the revenues and expenses incurred by Petitioner to provide wastewater service to the public is the twelve months ended December 31, 2015. The Settling Parties further agreed the utility properties used and useful for the provision of wastewater service to the public by Petitioner are properly valued for purposes of this proceeding as of December 31, 2015, subject to inclusion of the major projects placed in service after December 31, 2015. The Settling Parties stipulated that all statements of value in the Settlement Agreement are intended to be used exclusively for ratemaking purposes in this proceeding only and are not intended to reflect the fair market value of the assets of Petitioner's wastewater system.

b. Rate Base. The Settling Parties determined the regulatory fair value rate base of the utility properties used and useful for the provision of wastewater service based on the following stipulations:

(i) *Depreciation Applicable to Contributed Property Excluded from Rate Base-*The Settling Parties agree that because depreciation expense on contributed property (CIAC) is included in Petitioner's revenue requirement as an operating expense, rate base shall not be increased through any amortization of CIAC. The Settling Parties further agree and clarify this treatment shall also be applicable to rate base attributable to the amount stipulated in Cause No. 44273 for pre-2012 utility plant, as further described in Paragraph 8(b)(ii) below, as well as to rate base attributable to utility plant placed in service on or after January 1, 2012, as further described in Paragraph 8(b)(iii) below.

(ii) *Pre-2012 Rate Base.* Pursuant to Paragraph 1 of the Cause No. 44273 Settlement, the Settling Parties agreed that the net original cost of utility plant to be conveyed to Citizens Wastewater of Westfield, as it existed as of December 31, 2011, is deemed to be \$30,530,000, net of contributions of plant or cash and net of accumulated depreciation. The Settling Parties agree that the amount of additional accumulated depreciation for the period January 1, 2012, through December 31, 2015, to be applied to the foregoing stipulated amount of \$30,530,000 pre-2012 utility plant is \$6,856,463, which amount is based on the original cost of pre-2012 plant in service per Petitioner's actual books and records. Accordingly, the Settling Parties agree that, as of December 31, 2015, the net

original cost of Petitioner’s pre-2012 rate base, net of contributions of plant or cash and net of accumulated depreciation, is \$23,673,537;

(iii) *Post-2011 Rate Base and Allocated Plant.* The Settling Parties agree that (A) for purposes of establishing regulatory rate base in this proceeding the original cost of the utility plant Petitioner placed in service on or after January 1, 2012, including the major projects described in Paragraph 11 of the Verified Petition, is \$14,746,899; (B) the amount of additional accumulated depreciation to be applied to utility plant Petitioner placed in service on or after January 1, 2012, including the major projects described in Paragraph 11 of the Verified Petition, is \$453,105; (C) the total amount of contributed property and customer advances applicable to the utility plant Petitioner placed in service on or after January 1, 2012, including the major projects described in Paragraph 11 of the Verified Petition, is \$3,761,325; (D) the net original cost of the Petitioner’s allocated utility plant is \$727,846; and (E) the net original cost of Petitioner’s post-2012 rate base and allocated rate base, net of contributions of plant or cash and net of accumulated depreciation, is \$11,260,315;

(iv) *Fair Value Increment.* Pursuant to Paragraphs 3 and 4 of the Cause No. 44273 Settlement Agreement, Petitioner should be authorized to earn a return on the unamortized portion of the “fair value increment” initially established in the amount of \$17,040,000 to be amortized over 40 years from the date Petitioner closed its acquisition of wastewater utility assets, and as of December 31, 2015, the unamortized portion of the fair value increment is \$16,283,048; and

(v) *Regulatory Rate Base.* Based on the foregoing stipulations, the regulatory rate base of the utility properties used and useful for the provision of wastewater service by Petitioner to the public is \$51,216,900 as set forth below:

<u>Description</u>	<u>Amount</u>
Orig. Cost of Pre-2012 Plant as of Dec. 31, 2011	\$30,530,000
Less Accum. Dep. on Pre-2012 Plant: 2012 – 2015	<u>6,856,463</u>
Net Orig. Cost of Pre-2012 Plant as of Dec. 31, 2015	\$23,673,537
Orig. Cost of Post-2011 Plant as of Dec. 31, 2015	\$9,051,337
Orig. Cost of Major Project Additions	5,695,562
Less Accum. Dep. on Post-2011 Plant	453,105
Less CIAC and CAFC included above	<u>3,761,325</u>
Net Orig. Cost of Post-2011 Plant	10,532,469
Net Allocated Plant	<u>727,846</u>
Sum of Net Orig. Cost of Post-2011 Plant and Net Allocated Plant	\$11,260,315
Unamortized Portion of FV Inc. as of Dec. 31, 2015	\$16,283,048
Regulatory Rate Base for this Proceeding	\$51,216,900

c. Operating Results at Present Rates. The Settling Parties agreed that for purposes of this proceeding total pro forma operating revenues at present rates for the Petitioner are \$9,788,941. The Settling Parties also agreed Petitioner's pro forma present total operating expenses for purposes of this proceeding are \$6,899,447, which includes, without limitation: (i) purchased wastewater treatment costs of \$905,649; (ii) depreciation expense in the amount of \$2,489,539; (iii) pro forma rate case expense of \$190,500 to be amortized over three years for an annual revenue requirement of \$63,500; (iv) taxes of \$602,808; and (v) Indiana Utility Regulatory Commission fees of \$11,349. The Settling Parties agreed the pro forma net operating income under present rates is \$2,889,494, which is insufficient to cover Petitioner's necessary and reasonable operating expenses and provide the opportunity for Petitioner to earn a fair return. Accordingly, the Settling Parties agreed Petitioner's existing rates and charges are unjust and unreasonable and should be increased.

d. Allowed Return. The Settling Parties agreed Petitioner should be authorized a rate of return of 7.35%, on a rate base of \$51,216,900. The Settling Parties agreed this rate of return will adequately and fairly compensate Petitioner for its investments, while maintaining the financial viability of the wastewater utility. Applying a 7.35% rate of return to the regulatory rate base of approximately \$51,216,900 would generate a return of \$3,766,991.

e. Allowed Increases. The Settling Parties agreed Petitioner's current recurring monthly rates and charges should be increased to levels sufficient to produce additional operating revenues of \$895,490 from wastewater utility service, which reflects a 9.2% increase in total operating revenues.

f. Allocation of Agreed Upon Increase in Operating Revenues. The Settling Parties agreed the increase in operating revenues should be applied to Petitioner's rate classes on an across-the-board basis.

g. Minimum Treatment Charges. The Settling Parties agreed that the Minimum Treatment Charge will be based on the following usage amounts:

Sewer Rate No. 1	5,000 gallons
Sewer Rate No. 2 – 5/8" or ¾" meters	5,000 gallons
Sewer Rate No. 2 – 1" meters or larger	12,000 gallons
Unmetered Service	9,000 gallons

h. Cost of Service Study. Petitioner agreed to engage a consultant to conduct a cost of service study for presentation in its next general rate case. The OUCC agreed the reasonable costs of such a study may be recovered as a rate case expense in that case. The Settling Parties agreed that neither Petitioner, nor the OUCC, will be required to propose rates and charges based on the results of the cost of service study, but either party may make recommendations regarding both the cost of service study and any proposed allocation of the revenue requirement.

i. Terms and Conditions for Service. The Settling Parties agreed to the miscellaneous revisions to Petitioner's General Terms and Conditions for Wastewater Service set forth in Petitioner's case-in-chief. The Settling Parties agreed Petitioner's proposed Rule 12.3

should be clarified to apply only to Industrial Customers and is designed to give Petitioner the right to inspect their facilities only to ensure discharges do not contain pollutants or could otherwise cause a violation of Petitioner's NPDES permit or Federal, State or local laws applicable to the conveyance and treatment of those users' wastewater. The Settling Parties agreed Rule 12.3 should read as follows:

An Industrial Customer shall permit periodic inspection by the Utility, to take place while the Industrial Customer is operating or open for business to allow the Utility to determine that the Industrial Customer is not discharging effluent that would cause a violation of the Utility's permits or the permits of an entity ultimately treating the Industrial Customer's waste. The Utility shall provide reasonable notice of such inspection. However, if the Utility has reason to suspect or believe that a discharge poses an immediate threat of Upset, Interference or a Pass-Through, the Utility reserves the right to access outside normal business hours.

j. System Development Charge. The Settling Parties agreed that on or before August 1, 2017, but not sooner than sixty (60) days from the issuance of this Final Order, Petitioner shall file a petition and case-in-chief asking the Commission to approve a System Development Charge of at least \$2,000.

k. Other Provisions. The Settlement Agreement provides that it shall have a non-precedential effect and does not constitute an admission by any Party in any other proceeding except as necessary to enforce its terms. The Settling Parties agreed the Settlement Agreement is without prejudice to and will not constitute a waiver of any position that any of the Settling Parties may takewith respect to any or all of the issues resolved therein in any future regulatory or other proceeding.

9. Evidence Supporting Settlement Agreement

a. Petitioner's Evidence in Support of the Settlement Agreement

Jeffrey A. Willman testified that the Settlement Agreement, filed as Joint Settlement Exhibit 1, is the product of dedicated commitment by both parties to reach a mutually acceptable compromise in this case.

Mr. Willman further testified that the two primary areas of disagreement in this case are cost of capital and rate base. Mr. Willman testified that the Settling Parties agreed to cost of capital and rate base stipulations in this case, and that the settlement will provide the Petitioner an opportunity to earn a return that is sufficient to address the ongoing growth of the Westfield community and reasonably compensate Petitioner for its investment. Mr. Willman agreed with Ms. Stull that Petitioner and the OUCC were able to reach an agreement that is a fair, just and reasonable compromise of the rate making issues presented in this case.

Mr. Willman testified the Settlement Agreement includes stipulations on three other issues. First, while Petitioner and the OUCC agreed the increase authorized in this proceeding

should be implemented across the board to existing rate classes, Petitioner agreed to perform a cost of service study in connection with its next rate case. Second, the Settling Parties reached agreement regarding certain changes to Petitioner's terms and conditions for wastewater utility service. Finally, Petitioner and the OUCC reached agreement regarding the initiation of a future proceeding to request approval to implement a system development charge.

In conclusion, Mr. Willman respectfully requested the Commission find the Settlement Agreement to be in the public interest and approve it in its entirety without modification.

Sabine E. Karner testified in support for Section 1, Paragraph 2 of the Settlement Agreement, regarding rate base. She stated that Petitioner's regulatory rate base of the utility properties used and useful for the provision of wastewater service is \$51,216,900. Ms. Karner further asserted that this amount is composed of three distinct parts: (a) pre-2012 rate base of \$23,673,537; (b) post-2011 rate base of \$11,260,315, which follows Petitioner's actual books and records, including major project additions after the rate base cutoff; and (c) unamortized fair value increment of \$16,283,048.

When elaborating on the pre-2012 rate base component, Ms. Karner testified the Settlement Agreement stipulates that the original cost of pre-2012 plant in service, as recorded on Petitioner's actual books and records, should be the basis on which to calculate accumulated depreciation for purposes of updating the \$30,530,000 stipulation that was approved in Cause No. 44273 for pre-2012 rate base. Ms. Karner described that Petitioner and the OUCC have reached agreement that because depreciation expense applicable to contributed property is recoverable as an operating expense, no amount of accumulated depreciation applicable to the contributed property will be added back to either pre-2012 or post-2011 rate base.

Ms. Karner next testified the total amount of post-2011 utility plant included in rate base, net of accumulated depreciation and contributed property, is \$10,532,469 prior to the inclusion of net allocated plant of \$727,846. Ms. Karner also stated that the Settling Parties agreed the amount of the unamortized fair value increment authorized in Cause No. 44273 that should be included in rate base is \$16,283,048. In conclusion, Ms. Karner testified that in light of the stipulations authorized in Cause No. 44273, the agreed upon rate base of \$51,216,900 is supported by the record evidence and a reasonable conclusion for the Commission to reach.

Korlon L. Kilpatrick II, also testified in support of the Settlement Agreement and stated that Paragraph 5 the Settlement Agreement provides that Petitioner's annual pro forma operating revenues from recurring monthly rates and charges should be increased by \$895,490. Mr. Kilpatrick explained this represents an approximate 9.2% increase in total operating revenues from Petitioner's recurring monthly rates and charges.

Mr. Kilpatrick compared the agreed-upon rate to the Petitioner's initial proposed increase and summarized how the agreed-upon operating revenue increase was determined. Mr. Kilpatrick testified that the Settling Parties agreed Petitioner's total pro forma operating revenues at present rates are \$9,788,941 and Petitioner's pro forma operating expenses are \$6,899,447. Mr. Kilpatrick further stated that Petitioner's pro forma net operating income under present rates is \$2,889,494, and that the Settling Parties agreed the regulatory rate base is \$51,216,900,

resulting in a fair rate of return of 7.35%. Mr. Kilpatrick explained that applying this rate of return to the rate base would generate a fair return of \$3,766,991 for purposes of this proceeding, which translates to an \$895,490 increase over Petitioner's pro forma net operating income under present rates, inclusive of the increase to utility receipts tax, IURC fee, and net write-off. Mr. Kilpatrick testified that additional information regarding this determination is available in Paragraphs 1 through 4 of the Settlement Agreement, as well as Joint Settlement Exhibit 2.

Mr. Kilpatrick agreed the rate of return agreed upon for settlement purposes is both reasonable and a reasonable conclusion for the Commission to reach. Mr. Kilpatrick said that, although the Settling Parties "agreed to disagree" as to the precise methodology to use to derive Petitioner's WACC, each party believes the NOI is reasonable.

In Mr. Kilpatrick's opinion, each element of Petitioner's revenue requirement is supported in Petitioner's or the OUCC's testimony. Mr. Kilpatrick stated the increase in operating revenues and charges agreed to the Settlement Agreement will produce an income sufficient to satisfy the service requirements and provide the opportunity for Petitioner to earn a fair return. He believes these rates and charges are reasonable and just.

Mr. Kilpatrick further testified about the implementation of the agreed-upon rate increase as indicated in Paragraph 6 of the Settlement Agreement, in describing that the agreed-upon increase in operating revenues will be applied to Petitioner's rate classes on an across-the-board basis. Mr. Kilpatrick next explained that Petitioner agreed to engage a consultant to conduct a cost of service study for presentation in its next general rate case. Mr. Kilpatrick testified that the Settling Parties agreed that Petitioner's Minimum Treatment Charges would be based on the usage amounts outlined in the Settlement Agreement, and that the minimum treatment usage volume for unmetered service will be subject to review in the cost of service study performed in Petitioner's next rate case. Mr. Kilpatrick noted that the cost of service study will consider the appropriate discharge level that should be applied to unmetered customers. Mr. Kilpatrick testified that, in his opinion, these agreements are reasonable and in the public interest.

Relating to the implementation of a system development charge, Mr. Kilpatrick testified to the background to the Settling Parties' agreement as well as the agreement. He explained that the Settling Parties agreed that Petitioner will initiate a proceeding requesting Commission approval of a System Development Charge in an amount no less than the amount indicated in Petitioner's rebuttal testimony, and that Petitioner will also submit a proposal regarding the best means of assessing the System Development Charge. Mr. Kilpatrick asserted that the Settling Parties acknowledged that there are other stakeholders that may have views regarding the implementation of a System Development Charge, and that establishing a separate proceeding provides an opportunity for those stakeholders to express their views. Mr. Kilpatrick testified that the timeframe is a balance between the OUCC's desire to implement a System Development Charge as soon as possible and Petitioner's need to make sure it has appropriately thought through all of the issues associated with it. Furthermore, Mr. Kilpatrick explained that Petitioner did not agree to implement a connection fee despite Ms. Stull's recommendation to do so.

Mr. Kilpatrick explained that the Settling Parties agreed the miscellaneous revisions to the Petitioner's General Terms and Conditions for Wastewater Service should be approved by

the Commission subject to changing Petitioner's proposed Rule 12.3 as set forth in the Settlement Agreement. In Mr. Kilpatrick's opinion, Rule 12.3, as revised, is reasonable, in the public interest and allows Petitioner to meet requirements set forth in its NPDES permit and to provide safe and dependable wastewater service.

In conclusion, Mr. Kilpatrick recommended that the Commission approve the Settlement Agreement in its entirety as consistent with the public interest and authorize Petitioner to implement the Settlement Agreement by Final Order.

b. OUCC's Evidence in Support of the Settlement Agreement

OUCC witness, Ms. Stull described the key terms of the Settlement Agreement, including that the Settling Parties agreed to a 9.2% across-the-board rate increase and rate base of \$51,216,900, inclusive of an unamortized fair value increment of \$16,283,048. Ms. Stull further described the Settling Parties' agreement that no amount of accumulated amortization of contributed property shall be included in rate base – in other words, rate base shall not be increased through any amortization of CIAC, which is a component of rate base as a contra account. Ms. Stull explained that Petitioner will file for approval of a System Development Charge after a final order is issued in this Cause, that Petitioner will prepare a cost of service study in its next base rate case, and that the Settling Parties have agreed to language for Rule 12.3 of Petitioner's proposed Terms and Conditions for Service.

Ms. Stull testified the Settling Parties agreed to a 9.2% across-the-board rate increase and provided a comparison to the increases proposed by Petitioner and the OUCC. Ms. Stull stated her belief that the Settlement Agreement is in the public interest.

Ms. Stull also testified the Settling Parties agreed to a rate base of \$51,216,900 and provided a comparison to the rate base values proposed by Petitioner and the OUCC. Ms. Stull described the Settling Parties' agreement that because depreciation expense on CIAC is included in Petitioner's revenue requirement as an operating expense, Petitioner will not amortize CIAC, which treatment is applicable to both pre-2012 utility plant as well as post-2011 utility plant. Ms. Stull also stated that the Settling Parties agreed the balance of accumulated depreciation for pre-2012 utility plant is \$6,856,463 as of 12/31/2015, based on the original cost of the pre-2012 utility plant per Petitioner's actual books and records. Ms. Stull stated the Settling Parties further agreed the balance of accumulated depreciation for post-2011 utility plan is \$453,105 as of December 31, 2015.

Ms. Stull testified the Settling Parties agreed to a rate of return of 7.35% and a required net operating income of \$3,766,991. Ms. Stull explained the Settling Parties agreed to total pro forma operating revenues at present rates of \$9,788,941, pro forma operation and maintenance expenses of \$6,296,639, and pro forma other tax expense of \$602,808. Ms. Stull also noted that the Settling Parties agreed to a pro forma net operating income at present rates of \$2,889,494, consisting of operating revenues of \$9,788,941 less operating expenses of \$6,296,639 and other taxes of \$602,808.

Ms. Stull testified as to other additional settlement terms, including agreements to prepare and submit a cost of service study with Westfield's next base rate request, to petition for approval of a system development charge, and on language for one provision of Westfield's terms and conditions for service (Rule 12.3). Ms. Stull stated the cost of service study will consider the appropriate consumption level that should be applied to unmetered customers. Ms. Stull testified the OUCC agreed the reasonable costs of such a study may be recovered as a rate case expense. Ms. Stull also explained the Settlement Agreement stated that Westfield will initiate a proceeding on or before August 1, 2017 but not sooner than sixty (60) days after the issuance of a final order in this Cause asking the Commission to approve a system development charge.

Ms. Stull recommended the Commission find the settlement is in the public interest and approve the Settlement Agreement in its entirety.

10. Discussion and Findings

a. Commission Review of Settlement Agreements.

In various Orders of the Commission in other proceedings, we have previously discussed our policy with respect to settlements:

Indiana law strongly favors settlement as a means of resolving contested proceedings. *See, e.g., Manns v. State Department of Highways*, (1989), Ind., 541 N.E.2d 929, 932; *Klebes v. Forest Lake Corp.*, (1993), Ind. App. 607 N.E.2d 978, 982; *Harding v. State*, (1992), Ind. App., 603 N.E.2d 176, 179. A settlement agreement “may be adopted as a resolution on the merits if [the Commission] makes an independent finding, supported by substantial evidence on the record as a whole, that the proposal will establish ‘just and reasonable’ rates.” *Mobil Oil Corp. v. FPC*, (1974), 417 U.S. 283, 314.

Indianapolis Power & Light Co., Cause No. 39936, p. 7 (IURC 9/24/95); *see also Commission Investigation of Northern Ind. Pub. Serv. Co.*, Cause No. 41746, p. 23 (IURC 9/23/02). This policy is consistent with expressions to the same effect by the Supreme Court of Indiana. *See, e.g., Mendenhall v. Skinner & Broadbent Co.*, 728 N.E.2d 140, 145 (Ind. 2000) (“The policy of the law generally is to discourage litigation and encourage negotiation and settlement of disputes”); *In re Assignment of Courtrooms, Judge's Offices and Other Facilities of St. Joseph Superior Court*, 715 N.E.2d 372, 376 (Ind. 1999) (“Without question, state judicial policy strongly favors settlement of disputes over litigation”).

Nevertheless, pursuant to the Commission's procedural rules, and prior determinations by this Commission, a settlement agreement will not be approved by the Commission unless it is supported by probative evidence. 170 IAC 1-1.1-17. 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, 803 (Ind. 2000). Any settlement agreement approved by the Commission “loses its status as a strictly private contract and takes on a public interest gloss.” *Id.* (quoting *Citizens Action Coalition 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 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*, 735 N.E.2d 790 at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusion that the Settlement Agreement is reasonable, just, and consistent with the purpose of Ind. Code § 8-1.5-3-8, and that such agreement serves the public interest.

b. Rate Relief

In this case, the Commission has before it substantial evidence with which to judge the reasonableness of the terms of the Settlement Agreement, including the Parties’ agreement as to the increase in annual operating revenues. Each of the Parties presented substantial evidence supporting their respective positions. Based upon our review of that evidence and consideration of the provisions in the Settlement Agreement and its exhibits, we find the Settlement Agreement is within the range of the possible outcomes and represents a just and reasonable resolution of the issues in this Cause as further discussed below.

(1) *Revenue Requirement.*

The Parties agreed for purposes of settlement that Petitioner’s current recurring monthly rates and charges should be increased to levels sufficient to produce additional operating revenues of \$895,490 from wastewater service, which reflects an approximate 9.2% increase in total operating revenues. This agreement is based on concurrence among the Parties regarding Petitioner’s rate base, a rate of return, and operating revenue and operating expenses. As is discussed in further detail below, we find that the Settlement Agreement regarding Petitioner’s revenue requirement is reasonable, supported by evidence of record, and should be approved.

(2) *Rate Base.*

Petitioner presented evidence, that its utility properties used to provide wastewater service to the public, as included in its agreed upon rate base, are used and useful and reasonably necessary for the convenience of the public and should be included in its fair value rate base, and we so find.

A first step in determining revenue requirements requires the Commission to value all property used and useful for the convenience of the public at its fair value. Ind. Code § 8-1-2-6. Petitioner, along with the other Settling Parties, have agreed that, for purposes of establishing rates in this case, the fair value of Petitioner’s rate base for purposes of this proceeding, is \$51,216,900. As described in the Settlement Agreement, this rate base is composed of the following elements: (i) the net original cost of Petitioner’s pre-2012 rate base, net of contributions of plant or cash and net of accumulated depreciation, which the Settling Parties agreed to be \$23,673,537; (ii) the net original cost of Petitioner’s post-2012 rate base and allocated rate base, net of contributions of plant or cash and net of accumulated depreciation,

which the Settling Parties agreed to be \$11,260,315; (iii) the unamortized portion of the fair value increment agreed upon in the settlement in Cause No. 44273, which the Settling Parties agreed to be \$16,283,048.

The agreed upon rate base of \$51,216,900 is approximately \$3.8 million less than Petitioner's proposed rate base and approximately \$5.4 million than that proposed by the OUCC. This agreed upon rate base is supported by Petitioner's initial, rebuttal, and settlement testimonies, as well as by the OUCC's initial and settlement testimonies. The Settling Parties agreed that, because depreciation expense on CIAC is included in Petitioner's revenue requirement as an operating expense, Petitioner will not amortize CIAC. The Settling Parties agreed that the determination of accumulated depreciation should be based on the original cost of the utility plant in service before any offset for contributed plant and this treatment is appropriate for both pre-2012 utility plant as well as post-2011 utility plant.

Accordingly, we find that Petitioner's rate base for purposes of this proceeding is \$51,216,900, and that this rate base should be used for purposes of determining a fair return on the fair value of Petitioner's used and useful property for purposes of this case.

(3) *Fair Rate of Return.*

Having determined the fair value of Petitioner's used and useful property, we now turn to a determination of the level of net operating income that represents a reasonable return on that property. We are charged with providing the utility with the opportunity to earn a fair return on the fair value of its property. *See Gary-Hobart Water Corp. v. Ind. Util. Reg. Comm'n*, 591 N.E.2d 649, 653-54 (Ind. Ct. App. 1992) and *Office of Util. Consumer Counselor v. Gary-Hobart Water Corp.*, 650 N.E.2d 1201 (Ind. Ct. App. 1995). The testimony of various witnesses in this case reflected differing initial views that an appropriate weighted average cost of capital and resulting return on rate base for Petitioner. Petitioner had proposed a WACC of 8.76%. Petitioner believed this WACC was reasonable for a utility with the risk profile of Citizens Wastewater of Westfield. In its case-in-chief, the OUCC recommended a WACC of 4.8822%, which it maintained was reasonable for Petitioner. The Settling Parties ultimately concluded that applying a 7.35% rate of return to the agreed upon fair value rate base of \$51,216,900 would provide Petitioner with the opportunity to earn a return of \$895,490. Each Settling Party believes the agreed upon net operating income is reasonable, based on their particular view of Petitioner's capital structure and associated costs.

Given due consideration to the evidence of record, including the Settlement Agreement and the risks and challenges facing wastewater utilities generally and Petitioner in particular, we find that the agreed upon rate of return to be applied to the agreed upon rate base falls within a reasonable range and within the range of rates of return presented by Petitioner and the OUCC. This authorized fair return for the purpose of setting rates in this proceeding is within the range of outcomes proposed and supported in testimony by all parties. Accordingly, we find that a rate of return of 7.35%, designed to produce a fair return of \$895,490, is reasonable in this case.

(4) *Operating Results at Present Rates.*

In the Settlement Agreement, the Settling Parties agreed that total pro forma operating revenues at present rates for the wastewater utility are \$9,788,941 for purposes of this proceeding. This represents an increase of \$60,298 from Westfield's rebuttal *pro forma* operating revenues of \$9,728,643 and a decrease of \$2,448 from the OUCC's direct *pro forma* operating revenues of \$9,791,389.

The Settling Parties further agreed that the total of pro forma total operating expenses for purposes of this proceeding is \$6,899,447, which includes but is not limited to: (i) purchased wastewater treatment costs of \$905,649; (ii) depreciation expense in the amount of \$2,489,539; (iii) *pro forma* rate case expense of \$190,500 to be amortized over three years for an annual revenue requirement of \$63,500; (iv) taxes of \$602,808; and (v) Indiana Utility Regulatory Commission fees of \$11,349. OUCC witness Stull noted that the agreed-upon *pro forma* operation and maintenance expense represents an increase of \$1,447 from Westfield's rebuttal *pro forma* operating expenses of \$6,295,192. This increase is attributable to costs associated with the agreed increase in pro forma operating revenues (*e.g.*, increased tax expense represents an \$825 increase from Petitioner's pro forma other tax expense). Petitioner's direct and rebuttal testimony provides support for the agreements regarding Petitioner's pro forma expenses, including: rate case expenses and wastewater treatment costs. Accordingly, we find all pro forma adjustments and the resulting pro forma operating revenues at present rates agreed upon in the Settlement Agreement are reasonable and supported by substantial evidence of record.

(5) *Allowed Increase.*

Petitioner's witness Kilpatrick sponsored as Attachment KLK-S1 the revenue proof supporting the agreed-to revenues. The Settling Parties agreed that Petitioner's current recurring monthly rates and charges should be increased to levels sufficient to produce additional operating revenues of \$895,490, which reflects an approximately 9.2% increase in total operating revenues. The Settling Parties agreed that the amount of that allowed increase in additional revenues will provide Petitioner an opportunity to realize adequate utility operating income, enable Petitioner to maintain and support its credit and an opportunity to provide adequate financing, assure market confidence in its financial soundness, allow Petitioner to earn a return equal to that available on other investments of comparable risk, and permit it to obtain reasonable additional capital to enable Petitioner to render adequate, reliable and safe wastewater service to the public. The Commission finds that the rates estimated to produce these results are just and fair and should allow Petitioner an opportunity to earn a reasonable return on its property dedicated to providing utility services to the public.

c. Rate Design.

In reaching a compromise, the Settling Parties agreed an across-the-board increase was appropriate, with the stipulation described below that Petitioner perform a cost of service study in connection with its next rate case. The Settling Parties further agreed that the volumes used to calculate Petitioner's Minimum Treatment Charges should remain the same. However, the cost of service study presented in Petitioner's next base rate case will consider, among other things, the appropriate discharge level that should be applied to unmetered customers. Revised rate schedules for each customer class were attached to the Settlement Agreement as Joint

Settlement Exhibit 3. We find these rate design modifications are reasonable. However, as discussed further below, we order Petitioner to conduct a cost of service study as part of its next rate case.

d. Cost of Service Study.

Petitioner did not perform a cost of service study for use in this rate case, instead proposing an across-the-board increase. While the OUCC did not object to Petitioner's proposed across-the-board increase, OUCC witness Stull raised concerns about the volume of gallons assumed for unmetered flat rate customers. Mr. Stull recommended that Petitioner be required to conduct a cost of service study, including a review of rate design, in its next base rate case and present a proposal for implementation of changes to the unmetered rate. Petitioner's witness Kilpatrick stated that Petitioner would be willing to engage a consultant to perform a cost of service study as part of its next rate case as long as the cost of performing the study were recoverable in rates. Moreover, Mr. Kilpatrick stated that Petitioner may recommend a different discharge level that should be applied to unmetered customers than that proposed by Ms. Stull based on the usage characteristics at the time of Petitioner's next base rate case.

The Settlement Agreement provides that Petitioner will engage a consultant to conduct a cost of service study for presentation in its next general rate case and the reasonable costs of such study may be recovered as a rate case expense in that case. The cost of service study will consider, among other things, the appropriate discharge level that should be applied to unmetered customers. Neither Petitioner, nor the OUCC, will be required to propose rates and charges based on the results of the cost of service study, but either party may make recommendations regarding both the cost of service study and any proposed allocation of the revenue requirement. The Commission agrees that this is a fair and reasonable compromise.

e. System Development Charge.

OUCC witness Stull recommended that a system development charge of \$2,100 be added to Petitioner's tariff and implemented upon the issuance of a Final Order in this Cause. In addition, Ms. Stull recommended that Petitioner develop a cost-based connection fee. In rebuttal, Petitioner's witness Kilpatrick indicated that Petitioner was opposed to implementing either a system development charge or connection fee. Mr. Kilpatrick noted, among other things, that there are a number of complex issues at play in the implementation of a System Development Charge. Mr. Kilpatrick also testified that System Development Charges are typically proposed by utilities in their cases-in-chief. Mr. Kilpatrick also suggested that if a System Development Charge were to be implemented, the correct charge would be \$2,000.

The Settlement Agreement provides that on or before August 1, 2017, but not sooner than sixty (60) days after the of the issuance of a final Order in this Cause, Petitioner will file a petition and case-in-chief asking the Commission to approve a System Development Charge in an amount no less than \$2,000.

We find the terms of the Settlement Agreement relating to the initiation of a proceeding to create a System Development Charge to be reasonable.

f. Terms and Conditions for Service.

The Parties agreed that the miscellaneous revisions to Petitioner's Terms and Conditions for Wastewater Service set forth in Petitioner's Attachments KLK-5 and KLK-6 and described in the direct testimony of Mr. Kilpatrick should be approved by the Commission. The suggested revisions were described in the direct testimony of Petitioner's witness Kilpatrick. However, the Settling Parties agreed Petitioner's proposed Rule 12.3 should be clarified as follows to make clear that it applies only to Industrial Customers and is designed solely to give Petitioner the right to inspect their facilities only to ensure discharges do not contain pollutants or could otherwise cause a violation of Petitioner's NPDES permit or Federal, State or local laws applicable to the conveyance and treatment of those users' wastewater. The Settling Parties agreed Rule 12.3 should read as follows:

An Industrial Customer shall permit periodic inspection by the Utility, to take place while the Industrial Customer is operating or open for business to allow the Utility to determine that the Industrial Customer is not discharging effluent that would cause a violation of the Utility's permits or the permits of an entity ultimately treating the Industrial Customer's waste. The Utility shall provide reasonable notice of such inspection. However, if the Utility has reason to suspect or believe that a discharge poses an immediate threat of Upset, Interference or a Pass-Through, the Utility reserves the right to access outside normal business hours.

We find that the miscellaneous revisions to Petitioner's Terms and Conditions for Wastewater Service, including the revisions to Rule 12.3 agreed to in the Settlement Agreement, are reasonable and are hereby approved.

11. Conclusion Regarding Settlement Agreement

For the foregoing reasons, we find that the Settlement Agreement is reasonable, supported by the evidence and in the public interest. Therefore, we find that the Settlement Agreement is approved in its entirety, without modification.

12. Effect of Settlement Agreement

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 Ind. PUC LEXIS 459, at *19-22 (IURC March 19, 1997).

13. Confidentiality

Petitioner filed two motions seeking protective orders, which were supported by accompanying affidavits, showing certain attachments to be submitted to the Commission by OUCC witness Parks and Petitioner's witness Bukovac contained confidential, proprietary and trade secret information of a third-party within the scope of Ind. Code §§ 5-14-3-4(a)(4) and (9) and Ind. Code § 24-2-3-2. The Presiding Officers issued Docket Entries making preliminary findings of confidentiality after which Petitioner submitted the information to the Commission under seal. We find that all information submitted under seal by Petitioner is confidential pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 24-2-3-2, and shall continue to be exempt from public access and disclosure by the Commission.

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

1. The Stipulation and Settlement Agreement between Citizens Wastewater of Westfield and the OUCC filed in this Cause on February 22, 2017, which is attached to this Order, is approved in its entirety and without modification.

2. Petitioner is authorized to increase its rates and charges for wastewater service to levels sufficient to produce additional operating revenues of \$895,490, which reflects an approximate 9.2% increase in operating revenues.

3. Petitioner shall file with the Commission's Water and Wastewater Division a new schedule of rates and charges in the form set forth on Joint Settlement Exhibit 3 and, upon its approval, cancel its currently existing schedules of recurring monthly rates and charges.

4. The proposed changes to Petitioner's Terms and Conditions for Wastewater Service, which are reflected in Petitioner's Attachments KLK-5 and KLK-6, are approved subject to the modification described in finding paragraph 10(f).

5. Petitioner shall file a petition and case-in-chief requesting approval of a system development charge in accordance with the terms of Paragraph 11 of the Settlement Agreement and paragraph 8.j. of this Order.

6. The terms of the Stipulation and Settlement Agreement relating to the preparation of a cost of service study in connection with Petitioner's next general rate case are approved.

7. The documents identified in paragraph 13 of the findings qualify as confidential trade secret information within the scope of Ind. Code § 5-14-3-4(a) and (9) and Ind. Code § 24-2-3-2 and pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 24-2-3-2, these documents are exempt from public access and disclosure by Indiana law and shall be held confidential and protected from public access and disclosure by the Commission.

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

ATTERHOLT, FREEMAN, HUSTON, WEBER, AND ZIEGNER CONCUR:

APPROVED:

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

Mary M. Becerra
Secretary to the Commission