

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

<b>VERIFIED PETITION OF HAMILTON</b>	)	
<b>SOUTHEASTERN UTILITIES, INC. FOR</b>	)	
<b>1) AUTHORITY TO INCREASE ITS</b>	)	
<b>SYSTEM DEVELOPMENT CHARGES FOR</b>	)	
<b>ITS SERVICE TERRITORY TO REFLECT</b>	)	
<b>FISHERS' INCREASED AVAILABILITY</b>	)	<b>CAUSE NO. 45134</b>
<b>AND TREATMENT CAPACITY CHARGES,</b>	)	
<b>INCREASES IN COSTS FOR</b>	)	
<b>AVAILABILITY AND TREATMENT</b>	)	
<b>CAPACITY CHARGES ASSOCIATED</b>	)	
<b>WITH PENDING DEVELOPMENT</b>	)	
<b>PROJECTS IN THE NOBLESVILLE AND</b>	)	
<b>BOONE COUNTY CTAS, AND INCREASES</b>	)	
<b>IN COSTS TO ADDRESS THE IMPACT OF</b>	)	
<b>THE TAX CUTS AND JOBS ACT OF 2017;</b>	)	
<b>2) AUTHORITY TO MODIFY ITS SYSTEM</b>	)	
<b>DEVELOPMENT CHARGE FOR THE</b>	)	
<b>FLATFORK CREEK CTA TO REMOVE A</b>	)	
<b>SUPPLEMENTAL FEE THAT IS NO</b>	)	
<b>LONGER APPLICABLE; AND 3) FOR</b>	)	
<b>APPROVAL OF NEW RATE SCHEDULES</b>	)	
<b>AND A REVISED TARIFF</b>	)	
<b>IMPLEMENTING THE AUTHORIZED</b>	)	
<b>SYSTEM DEVELOPMENT CHARGES ON</b>	)	
<b>A UNIFORM BASIS FOR ALL CTAS</b>	)	

**PETITIONER'S SUBMISSION OF EXCEPTIONS**  
**TO THE OUCC'S PROPOSED ORDER**

Hamilton Southeastern Utilities, Inc. ("HSE" or "Petitioner"), by counsel, hereby submits its exceptions to the Office of Utility Consumer Counselor's ("OUCC") proposed order filed in this Cause on March 27, 2019. In short, the Commission should adopt Petitioner's March 8, 2019 proposed order in its entirety with certain changes shown in the attached redlined proposed order.

## **I. Introduction**

HSE's proposed SDC of \$4,471 for its Fishers service area (the "Fishers CTA"), Flatfork Creek service area (the "Flatfork Creek CTA"), Noblesville service area (the "Noblesville CTA"), and Boone County service area (the "Boone County CTA") is reasonable and supported by the evidence. The OUCC ultimately agreed to an SDC of \$4,471 for the Fishers CTA, Flatfork Creek CTA, and Noblesville CTA based on cost information provided by HSE for each of those service areas. For the Boone County CTA, the OUCC recommended that no SDC be granted at this time, which would reduce HSE's existing Boone County CTA SDC of \$2,850 to \$0. The OUCC also recommended that HSE's service areas be treated as separate and distinct areas, resulting in separate SDCs and separate accounting for each area and restrictions on use of SDC funds. HSE and the OUCC disagree as to the appropriate SDC for the Boone County CTA and whether HSE's service areas should be treated as separate and distinct service areas. As discussed below, the OUCC's recommendation of an SDC of \$0 for the Boone County CTA ignores the evidence in the record, is based on incorrect assertions, and could have a detrimental effect on development in the Boone County CTA. HSE also disagrees with the OUCC's proposed order because it fails to properly address the relief requested by HSE regarding the impact of the Tax Cuts and Jobs Act of 2017 (the "Tax Act"). HSE also seeks to clarify the process for refunding SDC amounts in the Flatfork Creek CTA to address the removal of the \$800 supplemental fee from the SDC charged in that area.

## **II. HSE's SDC in the Boone County CTA**

### **A. The cost information evidence supports an SDC of \$4,471.**

The OUCC recommended that HSE's proposed SDC of \$4,471 for the Boone County CTA not be approved and that its existing SDC of \$2,850 for the Boone County CTA, which the

Commission approved in Cause No. 44683, be reduced to \$0 and that no SDC be collected at this time. The basis for the OUCC's recommendation that no SDC be approved at this time, according to the OUCC, is that the cost information provided by HSE for the Boone County CTA is "speculative" and "largely untested." OUCC Proposed Order at 15-16. The OUCC recommended that once HSE has secured a means to treat the waste it collects in the Boone County CTA and before it collects an SDC in Boone County, HSE should file a separate proceeding with the Commission "to establish with adequate proof the SDC it shall implement in Boone County." OUCC Proposed Order at 17. In making its recommendation that no SDC be approved for the Boone County CTA, the OUCC relies on the Water Environment Federation Manual of Practice No. 27 *"Financing and Charges for Wastewater Systems"* (the "WEF Manual") and suggests that HSE has not complied with the WEF Manual because of the purported lack of cost information evidence provided by HSE in support of the SDC for the Boone County CTA. OUCC Proposed Order at 6-7, 15-16. Contrary to the assertions made by the OUCC, HSE has provided cost information justifying an SDC of \$4,471 for the Boone County CTA, and this cost information is entirely consistent with the WEF Manual and the Commission's past approval of HSE's SDCs.

HSE's current SDC of \$2,850, which was approved by the Commission in Cause No. 44683, applies to the Fishers CTA, Noblesville CTA and the Boone County CTA. In Cause No. 44683, HSE performed an incremental cost method analysis that used estimates and projections of capital project costs over a ten year period. The incremental cost method analysis concluded that an SDC of \$3,326 would be appropriate; however, HSE requested a lower SDC of \$2,850, which the Commission approved. In this proceeding, HSE explained that it does not have comprehensive cost information needed to do an incremental cost method analysis to calculate

an SDC for the Boone County CTA. As HSE explained in its rebuttal testimony, it would be ideal to have comprehensive cost information for the entire service area prior to new development occurring in the undeveloped area. Rebuttal Testimony of Kendall W. Cochran at 4. However, it is not always possible to have comprehensive cost information available for the entire service area prior to development because there are too many unknown variables to provide detailed cost estimates due to the undeveloped nature of the area, as is the case with the Boone County CTA. *Id.* HSE provided the best cost information available to it using estimated and projected costs of bringing sewer service to those proposed initial development service areas in the Boone County CTA. These costs are in the record and are not “speculative” as the OUCC asserts.

HSE’s testimony throughout the proceeding has reflected that HSE will be charged a capacity fee for wholesale treatment service in the Boone County CTA in the amount of \$1,425. See Direct Testimony of Kendall W. Cochran at 5; Direct Testimony of Otto W. Krohn at 4. The \$1,425 amount has not changed as discussions with Citizens Wastewater of Westfield (“Citizens Westfield”) have continued. The fact that the contract with Citizens Westfield has not yet been entered into does not mean that there will be no capacity fee for wholesale treatment service in the Boone County CTA or that this amount should not be considered in the determination of an SDC.

Likewise, the record reflects significant estimated collection system costs for the initial development in the Boone County CTA to extend a sewer main that connects to Citizens Westfield’s wastewater treatment plant (“WWTP”). It is not “speculative” that the cost to extend a service main to the WWTP will be substantial. HSE provided a reasonable cost estimate based upon the best available construction cost information. The use of estimates and projections to

calculate an SDC instead of definitive numbers is entirely consistent with Commission practice, including the approval of HSE's current SDC in Cause No. 44683.

The use of estimates and projections is also consistent with the WEF Manual relied upon by the OUCC. The WEF Manual suggests that SDCs be based upon a capital improvement plan that identifies the costs of the growth-related facilities. According to the WEF Manual,

...Utilities experiencing rapid-growth may require significant capital projects to serve planned development ...It is particularly important that the utility adopt a capital improvement plan ... that includes the following:

- **Projected development** throughout the planning period;
- **Distribution of growth** throughout the service area;
- **Capacity requirement of growth** in terms of flows and loadings;
- Existing system loadings and facility capacities;
- List of **planned capital improvement** to address various needs (replacement redistribution, expansion, etc.) and;
- **Estimated time frame** for completion of capital improvements.

(WEF Manual of Practice No. 27, Chapter 10, page 183) (emphasis added). Thus, even the WEF Manual recognizes that estimates and projections should be used in determining an SDC. The WEF Manual does not say that definitive cost information must be used for calculating an SDC. HSE's cost information analysis for the Boone County CTA included estimated capital costs and projected EDU growth. Although the capacity fee payable to Citizens Westfield may not be definitive because the wholesale treatment agreement has not been finalized, it is at the very least a reasonable estimate of a substantial cost that should be factored into the SDC for the Boone County CTA.

HSE provided all of the cost information needed to establish an SDC of \$4,471 for the Boone County CTA based upon reasonable estimates, and this information is in the record. The cost information analysis performed by HSE witness Otto W. Krohn shows that an SDC of \$6,226 would be justified given the substantial collection system capital costs not present in

HSE's other service areas. The OUCC interprets this cost analysis to mean that the cost of treatment in the Boone County CTA will be lower than HSE's other service areas and therefore the amount of the SDC retained by HSE for its own use will be significantly higher. OUCC Proposed Order at 15. It may be true that the capacity fee payment to Citizens Westfield on a per EDU basis will be lower than the fee payable to the City of Fishers and the City of Noblesville. This does not mean, however, that HSE's overall costs for treatment in the Boone County CTA will be lower. The OUCC does not take into account that under the proposed wastewater treatment agreement with Citizens Westfield, HSE is required to construct at its sole cost a main running from Citizens Westfield's WWTP to HSE's Boone County CTA, with a substantial portion of the line being in Citizens Westfield's service area. The actual costs for treatment, after including the capital costs to build a connector main to obtain treatment service from Citizens Westfield, are higher. Thus, it is not accurate to assert that HSE's treatment costs will be lower in the Boone County CTA. Although HSE would have been justified in requesting a higher SDC in the amount of \$6,226 for the Boone County CTA, it elected to go with a lower SDC in order to encourage development in an area that has remained undeveloped since HSE first obtained its Boone County CTA. This makes good business sense and is entirely consistent with past Commission practice of granting a lower SDC than what the cost information evidence may have supported.

**B. The OUCC's recommendation to delay the implementation of an SDC for the Boone County CTA until after a future proceeding at the Commission is unreasonable.**

The OUCC recommends that no SDC be established at this time for the Boone County CTA, and that once HSE has secured a means to treat any waste it collects in Boone County and before it seeks to collect an SDC in Boone County, HSE should file with the Commission a

petition and case to establish with adequate proof the SDC to implement in Boone County.

OUCC Proposed Order at 17. This would result in: 1) the existing SDC of \$2,850 for the Boone County CTA being lowered to \$0; and 2) before HSE can contract to provide sewer service in the Boone County CTA, it would need to petition the Commission to implement an SDC. This would delay and potentially discourage development in the Boone County CTA.

HSE cannot begin to provide sewer service in the Boone County CTA without the infrastructure needed to do so. HSE has shown that significant infrastructure is needed, and that the costs for this infrastructure are substantial. Without an SDC for the Boone County CTA, HSE will be unable to collect funds from developers that will help offset these significant costs. Simply put, without an established SDC in HSE's tariff for the Boone County CTA, HSE cannot enter into any extension agreements with developers that desire to start development in the Boone County CTA, and HSE cannot begin to finance and install the infrastructure needed to serve the Boone County CTA. If the Commission were to accept the OUCC's recommendation, any proposed development would be put on hold for several months while HSE files with the Commission "a petition and case with adequate proof" before it can implement an SDC. This could be detrimental to development in the Boone County CTA as many developers may decide to re-locate their projects elsewhere or abandon their projects entirely. Developers need certainty as to what HSE's SDC will be so that they can identify up-front the costs to build-out their proposed development. The OUCC's recommendation is bad for development in the Boone County CTA, unnecessary, and unreasonable.

### **III. Separate System Development Charges**

The OUCC asserts that HSE's service areas are separate and distinct from each other, and because of this, the Commission should establish separate SDCs for each service area. OUCC

Proposed Order at 14-15. The OUCC recommends that HSE maintain separate accounts to segregate the SDC funds collected in the separate service areas and that use of the funds be limited to the service area in which the funds are collected. *Id.* at 15. The evidence shows that HSE's service areas are not separate and distinct. Therefore, the Commission should reject the OUCC's recommendations to establish separate SDCs and separate SDC accounts, and reject the recommendation that use of the SDC funds be limited to the service area in which the SDC was collected.

The OUCC inaccurately describes HSE's service areas as being separate and distinct. They are not separate and distinct, and have never been treated as such. All of HSE's service areas are northern suburbs of Indianapolis within a few miles of each other. A substantial portion of the Noblesville CTA is contiguous to the Fishers CTA. All of HSE's service areas share similar income and housing characteristics. Many of the same developers who have developed in the Fishers CTA are looking to develop in the Boone County and Noblesville CTAs. There are many similarities between the Fishers, Noblesville, and Boone County CTAs, and there is no evidence showing that development costs are different. The only evidence in this case as to costs of development has been that offered by HSE, and that evidence shows the costs to be similar for all of HSE's service areas.

The OUCC asserts that each service area will have a different wholesale treatment provider, but that is not necessarily the case. The Noblesville CTA is contiguous to the Fishers CTA, and because of this, HSE has the ability to take flows from the Noblesville CTA for treatment by the City of Fishers. Nothing in HSE's agreement with the City of Noblesville requires Noblesville to treat all flows collected by HSE in the Noblesville CTA. In any event, different wholesale treatment providers does not mean that the costs for treatment service or the



costs to obtain treatment service will be substantially different in HSE's service areas. Moreover, it is not uncommon for a utility with non-contiguous service areas to have uniform system development charges. *See, e.g.,* Indiana American Water (which has multiple service areas and a uniform SDC based upon meter size).

The OUCC is concerned that a uniform SDC could result in subsidization of development in Boone County by customers in Hamilton County. OUCC Proposed Order at 15. Such a concern is unwarranted. HSE is not using higher treatment and collection costs in one service area to justify a higher SDC in all of its service areas. The opposite is true. HSE is using the cost information supporting a higher SDC of \$6,226 for the Boone County CTA and a range of \$4,461 to \$5,503 for the Noblesville CTA to show that a lower SDC of \$4,471 is reasonable. This is consistent with how HSE's SDCs were calculated in Cause No. 44683 (where the incremental cost method analysis supported a higher SDC than the \$2,850 sought by HSE and approved by the Commission). If HSE were to seek to impose, for the sake of uniformity, a higher SDC on a service area even though the evidence supported a lower SDC, this would conflict with Commission practice and how HSE's SDC has historically been calculated.

The evidence shows that an SDC of \$4,471 is appropriate for each of HSE's service areas, including the Boone County CTA. The evidence also shows that HSE's service areas are not separate and distinct, and therefore the Commission should not require separate SDCs, separate accounting, or limit HSE's use of SDC funds to the specific area where the funds are collected. If the OUCC's recommendations were to be implemented, it would add significant costs to ratepayers for accounting, financing, regulatory costs for rate proceedings, and added costs to implement such burdensome requirements.

#### **IV. The Tax Act Increase**

HSE is seeking to increase its SDC in part to address the impact of the Tax Act. HSE provided testimony as to the impact of the Tax Act on its SDC and how it determined the Tax Act liability of \$621. The OUCC's witness, Margaret Stull, provided testimony in which she accepted HSE's gross-up tax calculation for the Fishers CTA and Flatfork Creek CTA. See Public's Exhibit No. 1 at 5. The OUCC's proposed order inappropriately removes any discussion and findings regarding the Tax Act increase of \$621. HSE's proposed SDC of \$4,471 is comprised of three parts: 1) the \$2,050 capacity availability fee of payable to the City of Fishers; a charge of \$1,800 for HSE's collection system capital costs; and a \$621 increase due to the Tax Act. The Tax Act increase of \$621 is a part of the relief requested by HSE in this proceeding and should be addressed by the Commission as initially proposed by HSE and included in the attached redlined proposed order.

#### **V. Flatfork Creek Supplemental Fee**

The OUCC's proposed order includes language regarding the refunding of over-collected amounts as "proposed by HSE." HSE agrees that it is appropriate to include the refund language in the Commission's order. However, clarification is needed as to who the refund obligation applies. The refund is owed to those who actually paid the SDC fee, which may not be the "customer/applicant" as proposed by the OUCC. HSE clarifies this in the attached redlined proposed order.

#### **VI. Conclusion**

For all of the foregoing reasons, it is appropriate for the Commission to adopt Petitioner's proposed order in its entirety with changes shown in the attached redlined proposed order.

Respectfully submitted,



---

Randolph L. Seger (240-49)  
Michael T. Griffiths (26384-49)  
Bingham Greenebaum Doll LLP  
2700 Market Tower  
10 W. Market Street  
Indianapolis, Indiana 46204  
Telephone: (317) 635-8900  
Fax: (317) 236-9907  
Email: rseger@bgdlegal.com  
mgriffiths@bgdlegal.com

Attorneys for Petitioner,  
Hamilton Southeastern Utilities, Inc.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was electronically delivered  
this 8<sup>th</sup> day of April, 2019, to the following:

Office of Utility Consumer Counselor  
PNC Center  
115 West Washington Street  
Suite 1500 South  
Indianapolis, Indiana 46204  
dlevay@oucc.in.gov  
thaas@oucc.in.gov  
infomgt@oucc.in.gov



---

Attorney for Petitioner,  
Hamilton Southeastern Utilities, Inc.

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

<b>VERIFIED PETITION OF HAMILTON</b>	)	
<b>SOUTHEASTERN UTILITIES, INC. FOR</b>	)	
<b>1) AUTHORITY TO INCREASE ITS</b>	)	
<b>SYSTEM DEVELOPMENT CHARGES FOR</b>	)	
<b>ITS SERVICE TERRITORY TO REFLECT</b>	)	
<b>FISHERS' INCREASED AVAILABILITY</b>	)	<b>CAUSE NO. 45134</b>
<b>AND TREATMENT CAPACITY CHARGES,</b>	)	
<b>INCREASES IN COSTS FOR</b>	)	
<b>AVAILABILITY AND TREATMENT</b>	)	
<b>CAPACITY CHARGES ASSOCIATED</b>	)	
<b>WITH PENDING DEVELOPMENT</b>	)	
<b>PROJECTS IN THE NOBLESVILLE AND</b>	)	
<b>BOONE COUNTY CTAS, AND INCREASES</b>	)	
<b>IN COSTS TO ADDRESS THE IMPACT OF</b>	)	
<b>THE TAX CUTS AND JOBS ACT OF 2017;</b>	)	
<b>2) AUTHORITY TO MODIFY ITS SYSTEM</b>	)	
<b>DEVELOPMENT CHARGE FOR THE</b>	)	
<b>FLATFORK CREEK CTA TO REMOVE A</b>	)	
<b>SUPPLEMENTAL FEE THAT IS NO</b>	)	
<b>LONGER APPLICABLE; AND 3) FOR</b>	)	
<b>APPROVAL OF NEW RATE SCHEDULES</b>	)	
<b>AND A REVISED TARIFF</b>	)	
<b>IMPLEMENTING THE AUTHORIZED</b>	)	
<b>SYSTEM DEVELOPMENT CHARGES ON</b>	)	
<b>A UNIFORM BASIS FOR ALL CTAS</b>	)	<b>Proposed Order</b>

**ORDER OF THE COMMISSION**

**BY THE COMMISSION:**

**David Ober, Commissioner**

**Carol Sparks Drake, Senior Administrative Law Judge**

On August 15, 2018, Hamilton Southeastern Utilities, Inc. ("Petitioner" or "HSE") filed its Verified Petition with the Indiana Utility Regulatory Commission ("Commission") seeking: 1) authority to increase its System Development Charges ("SDC") for its service territory to reflect: (a) the City of Fishers, Indiana ("Fishers") increased availability and treatment capacity charges to HSE; (b) increases in costs for availability and treatment capacity charges associated with pending development projects in the Noblesville and Boone County CTA<sup>2</sup>s; and (c) increases in costs to address the impact of the Tax Cuts and Jobs Act of 2017 (the "Tax Act"); 2) authority to modify the SDC applicable to the Flatfork Creek CTA in order to remove a

supplemental fee that is no longer applicable; and 3) approval of new rate schedules and a revised tariff implementing the authorized SDC<sup>2</sup>s on a uniform basis for all of HSE's CTA<sup>2</sup>s. On August 17, 2018, HSE filed the verified direct testimony and attachments of Kendall W. Cochran and Otto W. Krohn in support of the relief requested.

Pursuant to notice and as provided for in 170 IAC 1-1.1-15, a prehearing conference was scheduled for October 1, 2018. On September 12, 2018, Petitioner and the Indiana Office of Utility Consumer Counselor ("OUCC"), in accordance with 170 IAC 1-1.1-15(e), filed an *Agreed Procedural Schedule in Lieu of Prehearing Conference* setting forth an agreed to procedural schedule and requesting that the agreed procedural schedule be in lieu of conducting a prehearing conference. On September 14, 2018, the Commission issued a docket entry establishing a procedural schedule in this Cause and vacating the prehearing conference.

On November 14, 2018, the OUCC filed the direct testimony of Margaret A. Stull. Petitioner filed the verified rebuttal testimony of Kendall W. Cochran and Otto W. Krohn on November 28, 2018. On December 6, 2018, the OUCC filed its *Motion to Strike and in the Alternative Motion to Continue Hearing and Authorize Sur-rebuttal* in which it asked the Commission to strike portions of HSE's rebuttal testimony, or in the alternative, continue the evidentiary hearing and authorize the OUCC an opportunity to file surrebuttal testimony. On December 11, 2018, the Commission issued a docket entry declining to strike portions of HSE's rebuttal testimony, granting the OUCC's request to file surrebuttal testimony, and continuing the evidentiary hearing to February 22, 2019. The Commission also modified the procedural schedule to allow HSE an opportunity to reply to the OUCC's surrebuttal testimony. The OUCC filed the surrebuttal testimony of Margaret A. Stull on January 15, 2019, and HSE filed the verified reply testimony of Kendall W. Cochran and verified reply testimony Otto W. Krohn in response to the OUCC's surrebuttal testimony on January 30, 2019. On February 12, 2019, the OUCC filed its *Motion to Strike Portions of HSE's Verified Reply to the OUCC's Surrebuttal* ("Motion to Strike") in which it asked the Commission to strike portions of HSE's reply testimony to the OUCC's surrebuttal. HSE filed a response to the Motion to Strike on February 14, 2019, and the OUCC filed a reply to HSE's response on February 21, 2019.

The Commission conducted an evidentiary hearing on February 22, 2019, at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Proofs of publication of the notice of the evidentiary hearing were incorporated into the record and placed in the official files of the Commission. Petitioner and the OUCC appeared at the hearing. The Commission denied the OUCC's Motion to Strike at the hearing. The testimony and attachments of Petitioner and the OUCC were admitted into the record without [additional objections](#). ~~objection. No members of the public appeared.~~

Based upon the evidence and being duly advised, the Commission now finds that:

**1. Notice and Jurisdiction.** Notice of the hearings conducted in this Cause were given and published as required by Ind. Code § 8-1-1-8. Petitioner also published notice of the filing of its Verified Petition in this Cause in accordance with Ind. Code § 8-1-2-61. Petitioner is a public utility as defined by Ind. Code § 8-1-2-1. The Commission has the authority to approve

rates and charges for utility service under Ind. Code § 8-1-2-42. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this Cause.

**2. Petitioner's Characteristics.** Petitioner is a corporation duly organized under the laws of the State of Indiana with its principal office and place of business at 11901 Lakeside Drive, Fishers, Indiana, 46038. Petitioner owns, operates and controls utility plant, property and equipment for the collection, treatment, purification, and disposal of sewage. HSE was granted certificates of territorial authority ("CTA") or indeterminate permits by the Commission in Cause Nos. 38685, 38819, 38897, 39567, 40501, 41528, 41745, 41752, 41798, 43435 and 43581. HSE's service territory includes parts of Fishers (the "Fishers CTA"), the City of Noblesville (the "Noblesville CTA"), Boone County (the "Boone County CTA"), and the area formerly served by Flatfork Creek Utilities, Inc. (the "Flatfork Creek CTA"). These CTA's are all governed by the same tariff on file at the Commission, except for the Flatfork Creek CTA which has a separate tariff due to it having an SDC that is \$800 higher than HSE's other service areas.

**3. Background and Relief Requested.** Petitioner's current SDC's were approved by the Commission in Cause No. 44683 by order issued November 9, 2016 (the "Order"). In the Order, the Commission approved an SDC of \$2,850 for all of Petitioner's service areas excluding the Flatfork Creek CTA, and an SDC of \$3,650 for the Flatfork Creek CTA. Petitioner filed its [Amended](#) Verified Petition in this Cause on August 17<sup>5</sup>, 2018, seeking a uniform SDC of \$4,471 for all of HSE's CTA's to reflect: 1) a \$1,000 increase in Fishers [availability](#) ~~wholesale~~ and treatment [capacity charges](#) ~~costs~~; 2) increased costs for availability and treatment capacity charges associated with pending development projects in HSE's Noblesville and Boone County CTA's; 3) increased costs due to the Tax Act; and 4) removal of the \$800 supplemental fee that is no longer applicable to the Flatfork Creek CTA. Petitioner also seeks approval of new rate schedules and a revised tariff implementing the authorized SDC's on a uniform basis for all of HSE's CTA's as the Commission has done in HSE's previous SDC cases.

**4. Evidence of the Parties.**

**A. Petitioner's Direct Testimony.** Kendall W. Cochran, President of Hamilton Southeastern Utilities, Inc., provided an overview of the relief requested by HSE along with background information related to the requested relief. Mr. Cochran discussed the SDC applicable to each of HSE's CTA's. For the Fishers CTA, he explained that the SDC is comprised of two parts: 1) a charge of \$1,800 for HSE's collection system capital costs; and 2) a wastewater capacity availability fee ("Fishers SDC") paid to HSE's wholesale treatment provider Fishers for each EDU of new development for which Fishers provides treatment capacity and service. The Fishers SDC is paid in accordance with two wholesale agreements between HSE and Fishers, and since 1994, the Fishers SDC has been \$1,050 for each EDU of new development treated by Fishers. Mr. Cochran explained the proposed increase to the Fishers SDC. According to Mr. Cochran, Fishers determined that an increase to the Fishers SDC was necessary to allow for the expansion of its sewage treatment capacity to meet demand for projected future growth. After lengthy negotiations, HSE and Fishers agreed to increase the Fishers SDC by \$1,000, resulting in a new Fishers SDC of \$2,050 for each EDU of new development in the Fishers CTA. Fishers' Board of Public Works and Safety approved the \$1,000 increase to the Fishers SDC on June 11, 2018, as reflected by Petitioner's [Attachment](#)

KWC-2. Mr. Cochran testified that he believes the \$1,000 increase to the Fishers SDC to be reasonable and necessary for the continued provision of reliable treatment service by Fishers that will enable it to meet the projected demand from HSE's customer growth.

Mr. Cochran next discussed the SDC applicable to the Noblesville CTA and Boone County CTA. He explained that even though HSE has the authority from the Commission to serve those areas, HSE has not yet begun providing service. HSE is presently reviewing developer building plans in those areas and expects to be rendering service soon. According to Mr. Cochran, the SDC currently applicable to the Noblesville and Boone County CTA<sup>2</sup>s is \$2,850, which is the same SDC applicable to the Fishers CTA. He explained that even though these service areas are all subject to the same SDC under HSE's current tariff, each service area will have a different wholesale treatment provider. Fishers provides wholesale treatment service to the Fishers CTA and Flatfork Creek CTA. HSE has an agreement with the City of Noblesville ("Noblesville") to provide wholesale treatment service in the Noblesville CTA. The Noblesville agreement requires HSE to pay a wastewater capacity availability fee for each EDU connected to Noblesville's system in the amount of \$2,100 or \$2,200, depending on the area being served. For the Boone County CTA, Mr. Cochran explained that HSE has been in negotiations with a wholesale treatment provider for the provision of treatment service and that once an agreement is finalized, HSE will be required to pay a wastewater capacity availability fee for each EDU treated by the wholesale treatment provider.

Mr. Cochran discussed the Tax Act and why it's relevant to HSE's SDC<sup>2</sup>s. He explained that as a result of the Tax Act, contributions in aid of construction ("CIAC") for investor-owned water and sewer utilities are now treated as taxable gross income for federal income tax purposes. This includes SDC payments collected by HSE. Mr. Cochran explained that HSE is seeking to increase the SDC for all of its service areas to address the portion of HSE's SDC that will be subject to federal and state income tax as a result of the Tax Act. Mr. Cochran explained that only a portion of HSE's SDC will be subject to federal and state income tax. According to Mr. Cochran, the portion of HSE's SDC collected by HSE and then remitted to Fishers or its other wholesale treatment providers is not subject to income tax, because HSE does not retain that money for use as CIAC. He explained that HSE is only seeking to revise its SDC to recover the taxable portion of the SDC that becomes CIAC. He also explained that the tax expense collected on the SDC will not be retained by HSE, but will instead be used to pay the relevant federal and state tax authorities.

Mr. Cochran explained the SDC applicable to the Flatfork Creek CTA. According to Mr. Cochran, the Commission previously approved a settlement agreement whereby HSE agreed to purchase the collection system assets of Flatfork Creek Utilities, Inc. ("Flatfork"), and Fishers agreed to purchase Flatfork's treatment assets. As part of HSE's purchase obligations to the seller of Flatfork (the "Seller"), HSE agreed to pay the Seller an \$800 per EDU facilities fee (the "Supplemental Fee") for EDUs related to improvements constructed on property located entirely within the geographic boundaries of the Flatfork Creek CTA. The Supplemental Fee is payable by HSE to the Seller until a total of 1,750 EDUs have been built in the Flatfork Creek CTA. Mr. Cochran explained that when the Commission initially approved HSE's SDC<sup>2</sup>s in Cause Nos. 43435 and 43761, the Supplemental Fee was included in the SDC applicable to the Flatfork Creek CTA. Thus, the SDC for the Flatfork Creek CTA approved in Cause Nos. 43435, 43761,



and in HSE's most recent rate case in Cause No. 44683, was \$800 higher than the SDC applicable to HSE's other service areas. The approved SDC for the Flatfork Creek CTA, including the Supplemental Fee, is currently \$3,650 per EDU. According to Mr. Cochran, HSE's commitment to the Seller to pay the Supplemental Fee has now been satisfied, and HSE is no longer paying the Supplemental Fee to the Seller. Mr. Cochran also explained that HSE's obligation to pay the Supplemental Fee expired prior to the Commission's approval of the \$3,650 Flatfork Creek SDC in Cause No. 44683. As a result, the Flatfork Creek SDC became effective on December 1, 2016 and HSE has been collecting the amount since that time. Mr. Cochran states that HSE will refund the \$800 Supplemental Fee paid by customers from December 1, 2016 to the date a revised SDC goes into effect as a result of this proceeding.

Mr. Cochran discussed the relief requested by HSE in this proceeding. He explained that HSE proposes to modify its SDC<sup>2</sup>s so that HSE will have one uniform SDC that applies to all of its CTA<sup>2</sup>s in the amount of \$4,471. Mr. Cochran explained why a uniform SDC is appropriate. According to Mr. Cochran, the costs for development have increased in each of HSE's CTA<sup>2</sup>s, and HSE expects the costs for development to be similar in these areas. He explained that the fee payable by HSE to its wholesale treatment providers is similar. He also explained that HSE is facing increased costs to build new plant and collection facilities, especially in the Noblesville and Boone County CTA<sup>2</sup>s where HSE will be extending service for the first time. Mr. Cochran testified that he believes development costs in each of its CTA<sup>2</sup>s will be similar based upon his discussions with developers and wholesale treatment providers. He testified that a uniform SDC will simplify development costs across HSE's system. He also testified that a uniform SDC is consistent with HSE's present tariff approved by the Commission, which has uniform SDC<sup>2</sup>s of \$2,850 for the Fishers, Noblesville, and Boone County CTA<sup>2</sup>s.

Mr. Cochran explained how the requested SDC amount of \$4,471 for each of HSE's CTA<sup>2</sup>s was determined. He explained that the Fishers CTA was used as a proxy because it is reflective of development costs in all of HSE's CTA<sup>2</sup>s and is the basis for HSE's current SDC<sup>2</sup>s. Mr. Cochran explained that the \$4,471 consists of the \$2,050 Fishers SDC, the \$1,800 charge for HSE's collection system capital costs, and a \$621 cost due to the Tax Act. He also explained that the Supplemental Fee applicable to the Flatfork Creek CTA was removed from the SDC since it is no longer being paid by HSE, resulting in the SDC applicable to the Flatfork Creek CTA being the same as the Fishers CTA.

Mr. Cochran also discussed proposed changes to HSE's tariff to reflect the proposed changes to the SDC<sup>2</sup>s. According to Mr. Cochran, because HSE is no longer paying the \$800 Supplemental Fee in the Flatfork Creek CTA, HSE seeks to consolidate all of its CTA<sup>2</sup>s into one service area schedule in its tariff instead of a tariff that is divided into two service area schedules as is the case with HSE's current tariff. HSE proposed that the consolidated tariff for all of HSE's CTAs be identified as "Schedule 1" with a uniform SDC of \$4,471 and that all other rates and charges remain unchanged from what the Commission approved in Cause No. 44683.

Otto W. Krohn, an executive partner at O.W. Krohn & Associates, testified about the impact of the Tax Act on HSE's SDC<sup>2</sup>s. He also provided background information on the SDC<sup>2</sup>s applicable to HSE's Fishers, Noblesville and Boone County CTAs, including the costs for wholesale treatment service in each of HSE's CTA<sup>2</sup>s. According to Mr. Krohn, contributed



property and cash SDC<sup>2</sup>s (i.e., CIAC) are considered to be taxable gross income beginning with tax year 2018 as a result of the Tax Act. Therefore, HSE is requesting relief to address the impact of the Tax Act on its SDC's. Specifically, HSE is seeking an increase of \$621 to its SDC<sup>2</sup>s to address the impact of the Tax Act (the "Tax Act Increase"). Mr. Krohn explained that only the taxable portion of the SDC is subject to the Tax Act Increase, which is the portion of the SDC retained by HSE that becomes CIAC and is used by HSE (the "Retained SDC"). Mr. Krohn explained how the Tax Act Increase was determined. According to Mr. Krohn, the increase was determined by calculating the SDC that would result in a Retained SDC of \$1,800, which is the amount currently retained by HSE pursuant to the Commission's order in Cause No. 44683. Using a blended federal and state tax rate of 25.64% and the Fishers SDC of \$2,050, Mr. Krohn determined the Tax Act Increase to be \$621, which when added to the Fishers SDC of \$2,050 and the Retained SDC amount of \$1,800 results in a total SDC of \$4,471. He explained that HSE is proposing a uniform SDC of \$4,471 for all of its CTA<sup>2</sup>s and that having a uniform SDC is advantageous to both HSE and developers due to similarities with regard to sewer service costs and development costs in Fishers, Noblesville and Boone County.

**B. OUCC's Testimony.** Margaret A. Stull, a Chief Technical Advisor in the Water/Wastewater Division of the OUCC, [testified in response to HSE's request for approval to collect a \\$4,471 system development charge in its Boone County and Hamilton County service areas.](#) Ms. Stull accepted HSE's proposed SDC of \$4,471 per EDU for HSE's Fishers and Flatfork Creek CTA<sup>2</sup>s, ~~but she~~ [Ms. Stull](#) did not agree with the proposed SDC of \$4,471 for the Noblesville CTA or Boone County CTA. According to Ms. Stull, the costs to be included in HSE's SDC [for each service territory](#) should be any capacity fees imposed by the wholesale treatment provider as well as the estimated capital costs to be incurred by HSE to collect the waste and deliver it to the wastewater treatment facility, [including the costs of collection mains, pumps, and lift stations.](#) [She stated these costs could vary from one service territory to the next due to differences in growth patterns, density of growth, and other causes.](#) Ms. Stull noted that according to the Water Environment Federation ("WEF") Manual of Practice No. 27 "*Financing and Charges for Wastewater Systems*":<sup>1</sup>

[...Utilities experiencing rapid growth may require significant capital projects to serve planned development...It is particularly important that the utility adopt a capital improvement plan \(often part of a master plan or other system infrastructure plan\) that includes the following:](#)

- [Projected development throughout the planning period;](#)
- [Distribution of growth throughout the service area;](#)
- [Capacity requirement of growth, in terms of flows and loadings;](#)
- [Existing system loadings and facility capacities;](#)
- [List of planned capital improvement to address various needs \(replacement redistribution, expansion, etc.\); and](#)
- [Estimated time frame for completion of capital improvements.](#)

---

<sup>1</sup> Water Environment Federation, Manual of Practice No. 27, Financing and Charges for Wastewater Systems, Chapter 10 – System Development Charges (Attachment MAS-2).

...The capital improvement plan used to develop the SDCs should identify the costs of the growth-related facilities.

(WEF Manual of Practice No. 27, Chapter 10, page 183.)

With respect to the Noblesville CTA, Ms. Stull testified that the SDC should be limited to the amount passed-through to the City of Noblesville. She recommended that the existing SDC of \$2,850 be lowered to an SDC of \$2,200 for Area 5 of the Noblesville CTA and an SDC of \$2,100 for the remaining portions of the Noblesville CTA. According to Ms. Stull, this SDC charge will recoup the pass through costs owed by HSE to the City of Noblesville for providing wholesale wastewater treatment. She recommended that once HSE provides a master plan or capital improvement plan for the Noblesville CTA, including estimated costs to provide service in the territory, HSE can file a cause before the Commission to revise the SDC applicable to the Noblesville CTA. Ms. Stull recommended that no SDC be authorized for the Boone County CTA at this time (i.e., the existing SDC of \$2,850 for the Boone County CTA be reduced to \$0) until such time as HSE has a wholesale wastewater treatment contract and has provided a master plan or capital improvement plan along with estimated costs to provide service in the territory. According to Ms. Stull, HSE would then be able to file a cause before the Commission to establish an SDC for the Boone County CTA.

Ms. Stull agreed with HSE's gross-up calculation for income taxes on the SDC applicable to the Fishers and Flatfork Creek CTA's. She explained that the federal and state tax rates applicable to HSE as a C corporation results in a gross-up factor of 1.344827, and that applying this gross-up factor to HSE's portion of the SDC of \$1,800 results in income taxes of \$621. Ms. Stull did not recommend a gross-up for income taxes be included with her proposed SDC's for the Noblesville and Boone County CTA's.

Ms. Stull testified that HSE's service areas are not interconnected and should be treated as separate and distinct areas. She also discussed concerns she has regarding HSE's collection of system development charges. Ms. Stull recommended that once HSE begins providing service in the Noblesville and Boone County service territories, any SDC funds collected should be maintained in separate accounts and the SDC funds collected should be used to pay for utility plant within that service territory and not be used for other service territories or other purposes.

**C. Petitioner's Rebuttal Testimony.** Mr. Cochran responded to the recommendations made by Ms. Stull regarding HSE's Noblesville and Boone County CTA's. He also responded to Ms. Stull's assertion that HSE's service territories are not interconnected and should be treated as separate and distinct areas. Mr. Cochran explained that Ms. Stull's proposed SDC's of \$2,200 for Area 5 of Noblesville, and \$2,100 for the rest of the Noblesville CTA, and \$0 for the Boone County CTA are insufficient to cover the costs of new development in these areas and could impede development. According to Mr. Cochran, discussions with developers in the Noblesville CTA have intensified, and it appears that development is likely to start in the next few months. He also testified that HSE has had preliminary discussions with developers in the Boone County CTA. Mr. Cochran explained that developers in the Noblesville and Boone County CTA's need certainty as to what HSE's SDC will be so that they can identify costs up-front to build-out their proposed development. He explained that an SDC that excludes any funds for use by HSE for collection system capital costs is insufficient and that to follow Ms. Stull's

recommendation to have HSE develop an SDC unique to each of its CTA<sup>2</sup>s and then get approvals from the Commission is unreasonable and could persuade developers to delay or abandon their projects. He explained that a uniform SDC of \$4,471 will give HSE the funds it needs to pay its pass-through costs to wholesale treatment providers, pay income taxes as a result of the Tax Act, and pay for collection system capital costs.

Mr. Cochran responded to Ms. Stull's assertion that an SDC for the Noblesville and Boone County CTA<sup>2</sup>s should be supported by cost information such as a master plan or capital improvement plan along with estimated costs to provide service to the territory. He agreed with Ms. Stull that it would be ideal to have comprehensive cost information prior to commencement of new development. He explained, however, that it is not possible to put together a comprehensive plan with known costs for the entire service territories. He testified that there are too many unknown variables to provide detailed cost estimates for the entire service areas, including the location of development and the number of equivalent dwelling units. He explained that the only way to provide the type of cost information recommended by Ms. Stull is to do so on a project by project basis.

Mr. Cochran discussed the estimated costs for proposed initial development in the Noblesville CTA. According to Mr. Cochran, HSE's share of the costs is estimated to be in the range of \$1.82 million to \$2.62 million. He provided an attachment, Attachment KWC-R1, detailing the cost estimates. Mr. Cochran explained that using the cost information in Attachment KWC-R1, he instructed HSE's witness Mr. Krohn to prepare a cost analysis of the proposed initial development. This cost analysis, according to Mr. Cochran, shows that HSE's proposed SDC of \$4,471 is in the lower part of the range of the SDC needed to pay for HSE's share of the initial development's costs. Mr. Cochran testified that although Mr. Krohn's analysis concludes that a higher SDC may be justified in this area of the Noblesville CTA, he continues to believe that a uniform SDC of \$4,471 for all of HSE's service areas is appropriate. He explained that a uniform SDC will simplify development costs across the system and is consistent with how HSE's SDC has historically been calculated. Mr. Cochran explained that HSE did not have cost estimates for the Noblesville CTA until recently, as it has taken time to fully assess the project and get to the point that reliable cost estimates could be made.

Mr. Cochran disagreed with Ms. Stull's assertion that HSE's service territories are not interconnected and should be treated as separate and distinct areas. He testified that HSE's service areas share many similarities. According to Mr. Cochran, all of HSE's CTA<sup>2</sup>s are northern suburban areas of Indianapolis and are all contiguous to Indianapolis. He explained that a substantial portion of the Noblesville CTA is contiguous to the Fishers CTA. He explained that all of HSE's service territories have similar income and housing characteristics, including that Hamilton County and Boone County rank first and second in the State of Indiana in median household income, per capita personal income, and housing median value. He testified that development in these areas will be similar because the characteristics of the residents who live in these areas are similar and that the developers that are looking to develop in the Noblesville and Boone County CTA<sup>2</sup>s are many of the same developers that have developed in the Fishers CTA.

Mr. Cochran disagreed with Ms. Stull's recommendations that SDC funds collected in the Noblesville and Boone County CTA<sup>2</sup>s be maintained in separate accounts and the funds

collected in those areas be used to pay for utility plant within that service territory and not be used for other service territories or other purposes. According to Mr. Cochran, Ms. Stull inaccurately characterizes HSE's system as being separate and distinct. He explained that HSE is one utility serving one distinct area and that HSE's financial statements are for one utility. He testified that HSE has never had to keep separate books for its CTA's and that the Commission has never treated HSE's service areas as being separate and distinct. Mr. Cochran explained that restricting HSE's access to CIAC funds by the specific service area could severely hamper HSE's ability to pay for utility plant needed to serve its undeveloped service areas. He explained that HSE needs to be able to use SDC funds collected throughout its entire service area to pay for the significant upfront costs needed to serve the undeveloped Noblesville and Boone County CTA's. Mr. Cochran believes a uniform SDC of \$4,471 collected in all of HSE's service areas will allow HSE to pay for the significant upfront costs of new development.

Mr. Krohn responded to Ms. Stull's recommendation that HSE establish separate SDC's for each of its service areas. Mr. Krohn discussed the similarities between the Fishers, Noblesville and Boone County CTA's and why he thinks it is appropriate for HSE to use the Fishers CTA as a proxy for calculating its SDC. He also discussed cost information for the initial development project in the Noblesville CTA. Using the cost information provided by Mr. Cochran in Attachment KWC-R1, Mr. Krohn did a comparison of the costs for the initial development in the Noblesville CTA to the uniform SDC of \$4,471 proposed by HSE using the Fishers CTA as a proxy. Using a range of collection system capital costs of \$1,820,000 to \$2,623,000, a gross-up for income taxes, capitalized interest, the wholesale treatment cost for Area 1 of the Noblesville CTA, and the approximate number of EDUs for the initial development project, Mr. Krohn determined that the range for an SDC for the initial development in the Noblesville CTA to be \$4,461 to \$5,503 per EDU. Mr. Krohn testified that his cost illustration supports HSE's use of the Fishers CTA as a proxy and a uniform SDC of \$4,471. Mr. Krohn explained why it is important for HSE to have a uniform SDC, including the benefit to developers of knowing development costs upfront and the efficiency of single tariff pricing for dealing with new development.

**D. OUCC's Surrebuttal.** Ms. Stull recommended the requested SDC of \$4,471 for the Noblesville CTA be allowed. She testified that the cost information provided by HSE supported an SDC of \$4,471 for the Noblesville CTA. She noted that HSE had provided a range of capital cost estimates for the Noblesville collection system and the requested SDC of \$4,471 was within that range. Ms. Stull continued to recommend that no SDC for the Boone County CTA be authorized at this time~~the existing SDC of \$2,850 for the Boone County CTA be reduced to \$0.~~ According to Ms. Stull, the Boone County CTA should not have an SDC at this time because a wholesale treatment agreement has not been entered into, and HSE failed to provide any capital cost estimates for collection system capital costs or any other cost information for the Boone County CTA. She also recommended that HSE not have a uniform SDC for its various service areas. According to Ms. Stull, HSE's SDC should be developed based on the best cost information available that reflects the differences in how sewage disposal service is being provided in HSE's discrete service areas.

**E. Petitioner's Reply to OUCC's Surrebuttal.** Mr. Cochran disagreed with Ms. Stull's recommendation that the SDC applicable to the Boone County CTA be reduced from

\$2,850 to \$0. He also disputed Ms. Stull's assertion that HSE failed to provide any cost information for the Boone County CTA. According to Mr. Cochran, there are significant costs for HSE to expand its system into the Boone County CTA. He testified that Ms. Stull's recommended SDC of \$0 is unreasonable, not supported by the evidence, and could delay development in the Boone County CTA.

Mr. Cochran discussed HSE's ongoing negotiations with Citizens Wastewater of Westfield, LLC ("Citizens Westfield") for the provision of wholesale treatment service in the Boone County CTA. He explained that HSE will be required to pay a Capacity Fee to Citizens Westfield in the amount of \$1,425, an amount that has remained consistent throughout HSE's negotiations with Citizens Westfield. He testified that the Capacity Fee amount of \$1,425 is not new cost information and explained that the OUCC and the Commission were provided this information. Additionally, Mr. Cochran discussed other cost information provided to the Commission and OUCC consisting of the estimated cost of constructing a force main to the eastern boundary of the Boone County CTA, which HSE estimated to be approximately \$5 million. He explained that the construction of that force main is not the only construction necessary to connect to the Citizens Westfield wastewater treatment plant ("WWTP"). According to Mr. Cochran, as discussions with Citizens Westfield have continued, it is now clear that HSE will be responsible for the cost to construct a force main that connects to the WWTP, including the portion inside Citizens Westfield's CTA. Mr. Cochran estimated that the full cost to connect to the WWTP would be approximately \$7.6 million, as detailed in Attachment KWC-R5. He also explained that there would be oversizing costs for the initial proposed development in the Boone County CTA, as shown in Attachment KWC-R5.

Mr. Cochran also discussed why the proposed SDC of \$4,471 for the Boone County CTA is appropriate. He testified that he directed Mr. Krohn to perform a cost analysis using the cost information in Attachment KWC-R5 to compute an SDC for the Boone County CTA. He explained that the cost analysis concluded that a higher SDC in the amount of \$6,226 may be warranted. However, Mr. Cochran testified that he believes a uniform SDC of \$4,471 is appropriate at this time. According to Mr. Cochran, if the SDC is set too high, it could discourage development in the Boone County CTA. He testified that an SDC that is consistent with HSE's other service areas will promote development in the Boone County CTA and also give HSE funds it needs to pay for significant infrastructure costs.

Mr. Cochran disagreed with Ms. Stull's recommendation that HSE not have a uniform SDC and disagreed with her characterizations of HSE's service areas as being different, separate, and discrete. He discussed the similarities between HSE's service areas, including significant collection system capital costs and treatment costs. According to Mr. Cochran, the cost information provided by HSE and the similarities between each CTA support a uniform SDC of \$4,471.

Mr. Krohn responded to Ms. Stull's recommendation that no SDC be authorized for the Boone County CTA at this time ~~that the SDC applicable to the Boone County CTA~~ (i.e., that the existing SDC be lowered from \$2,850 to \$0). He disagreed with Ms. Stull's recommendation of a \$0 SDC for the Boone County CTA and explained that such an amount is unreasonable and insufficient for HSE to meet its capital needs to provide sewage disposal service in the Boone



County CTA. Mr. Krohn also provided analysis of the Boone County CTA cost information discussed in Petitioner's Exhibit 5 and Attachment KWC-R5. Using the cost information to connect to the Citizens Westfield WWTP, the oversizing costs for initial development in the Boone County CTA, the Capacity Fee of \$1,425 per EDU that will be payable to Citizens Westfield, and projected EDU<sup>2</sup>s for the first 10 years of growth in the Boone County CTA, Mr. Krohn calculated an SDC for the Boone County CTA. He determined that an SDC of \$6,226 would be reasonable for the Boone County CTA, but agreed with Mr. Cochran that an SDC consistent with HSE's other service areas is appropriate and therefore recommended an SDC of \$4,471 for the Boone County CTA. He explained that a uniform SDC is consistent with the methodology used by HSE in calculating its SDC in Cause Nos. 43761 and 44683 where HSE requested (and the Commission approved) lower SDC<sup>2</sup>s of \$2,400 and \$2,850 even though the incremental cost method analysis performed by HSE supported higher SDC<sup>2</sup>s of \$3,363 and \$3,326.

**5. Commission Discussion and Findings.** In Cause No. 44683, the Commission approved an SDC of \$2,850 for all of HSE's service areas excluding the Flatfork Creek service area, and an SDC of \$3,650 for the Flatfork Creek service area. In this proceeding, HSE seeks to increase its SDC on a uniform basis to \$4,471 for all of its service areas using the Fishers CTA as a proxy. The proposed increase consists of a \$1,000 increase to the capacity availability fee payable to the City of Fishers on a per EDU basis, which is now \$2,050 per EDU, and a \$621 increase to pay for income taxes as a result of the Tax Cuts and Jobs Act of 2017. For the Flatfork Creek CTA, HSE proposes to eliminate a supplemental fee of \$800 from the SDC, which will result in an SDC that is equivalent to the SDC applicable to the Fishers CTA. The OUCC recommended that the SDC of \$4,471 be approved for the Fishers CTA, Flatfork Creek CTA, and Noblesville CTA but did not agree that a uniform SDC that applies to all of HSE's service areas be approved at this time. For the Boone County CTA, the OUCC recommended that no SDC be authorized at this time, which would result in the existing SDC of \$2,850 being reduced to \$0<sub>2</sub> due to HSE not yet entering into a wholesale treatment agreement with a wholesale treatment provider and a purported failure on the part of HSE to provide cost information. We find that HSE has supported a uniform SDC of \$4,471 and therefore approve an SDC of \$4,471 for the Fishers CTA, Flatfork Creek CTA, Noblesville CTA and Boone County CTA.

HSE provided detailed cost information supporting its assertion that there will be significant costs for new development in each of its CTA<sup>2</sup>s and that the costs for development are similar. For the Fishers and Flatfork Creek CTA<sup>2</sup>s, HSE provided evidence of a \$1,000 increase to the pass-through portion of its SDC that HSE must pay to its wholesale treatment provider, the City of Fishers, resulting in a capacity availability fee payable to Fishers in the amount of \$2,050 for each EDU of new development. For the Noblesville CTA, HSE provided evidence of the costs for wholesale treatment service by the City of Noblesville, which is either \$2,200 or \$2,100 per EDU depending on the area being served. HSE also provided detailed cost information for the initial proposed development in the Noblesville CTA and analysis of that cost information. HSE's witness Mr. Krohn concluded that an SDC in the range of \$4,461 to \$5,503 would be appropriate for the Noblesville CTA. In its surrebuttal testimony, the OUCC agreed that the cost information provided by HSE supported an SDC of \$4,471 for the Noblesville CTA.

We find the cost information for the Fishers, Flatfork Creek (discussed further below) and Noblesville CTA<sup>2</sup>s supports an SDC of \$4,471.

We disagree with the OUCC's assertions that HSE failed to provide cost information for the Boone County CTA and failed to provide cost information that complies with the WEF Manual, and we disagree with the OUCC's~~its~~ recommendation that the SDC applicable to the Boone County CTA be lowered from \$2,850 to \$0. We find that HSE did provide evidence, including cost information, supporting an SDC for the Boone County CTA of \$4,471. HSE provided cost information for the Boone County CTA detailing the costs for wholesale treatment service by Citizens Westfield in the amount of \$1,425, the estimated costs to construct a force main that will interconnect with Citizens Westfield's wastewater treatment plant, and the estimated oversizing costs for initial development in the Boone County CTA. This cost information is also consistent with the WEF Manual referred to by Ms. Stull in her testimony. The WEF Manual suggests that an SDC be based on estimates and projections of capital improvement projects to address growth and not definitive cost information. HSE's cost information included estimated capital costs and projected EDU growth. Using this cost information, HSE provided evidence that an SDC of \$6,226 would be justified for the Boone County CTA. HSE explained, however, that an SDC set too high could discourage development in the Boone County CTA. We find this to be a legitimate concern, and agree with HSE that an SDC lower than the \$6,226 amount supported by the cost information analysis for the Boone County CTA is appropriate. A lower SDC of \$4,471 is consistent with the methodology used to calculate HSE's existing SDC<sup>2</sup>s in Cause Nos. 43761 and 44683, where the Commission approved lower SDC<sup>2</sup>s even though the incremental cost method analysis evidence provided by HSE supported higher SDC<sup>2</sup>s. We also agree with HSE that similarities in each of its CTA<sup>2</sup>s supports a uniform SDC of \$4,471.

For the Flatfork Creek CTA, HSE provided evidence regarding the \$800 Supplemental Fee included in the SDC for that area and explained that HSE was no longer paying the Supplemental Fee to the seller of Flatfork Creek Utilities, Inc. HSE requested that the Supplemental Fee be removed from the SDC applicable to the Flatfork Creek CTA, which would result in the SDC for the Flatfork Creek CTA being the same as the SDC for the Fishers CTA. The OUCC did not object to HSE's proposal to remove the Supplemental Fee from the SDC for the Flatfork Creek CTA. Therefore, we find HSE's proposal to remove the Supplemental Fee from the SDC applicable to the Flatfork Creek CTA to be reasonable. Removal of the Supplemental Fee results in an SDC for the Flatfork Creek CTA of \$4,471. Having found that the Supplemental Fee of \$800 should be removed from the SDC applicable to the Flatfork Creek CTA, we also find the refund for the Supplemental Fee as proposed by HSE should be implemented and so order.

We next address the inclusion of income tax expense in the SDC as a result of the Tax Cuts and Jobs Act of 2017. HSE explained that its proposed uniform SDC of \$4,471 consists of three components: 1) the \$2,050 per EDU capacity availability fee payable to the City of Fishers; 2) the \$1,800 "Retained SDC" used by HSE for its collection system capital costs; and 3) an increase of \$621 to pay for income tax expense incurred as a result of the Tax Act. HSE's witness Mr. Krohn explained that the Tax Act increase of \$621 was calculated by determining the SDC needed to give HSE a Retained SDC of \$1,800. Using a blended federal and state tax

rate of 25.64% and the capacity fee payable to Fishers of \$2,050, Mr. Krohn determined the Tax Act increase to be \$621, which when added to the \$2,050 payable to Fishers and the Retained SDC amount of \$1,800, results in a total SDC of \$4,471. The OUCC agreed with HSE's Tax Act increase of \$621. We find that an increase to HSE's SDC to address the impact of the Tax Act is reasonable and that the evidence supports the requested increase of \$621.

HSE also proposed changes to its tariff to reflect the proposed changes to its SDC<sup>2</sup>s. HSE seeks to consolidate all of its CTA<sup>2</sup>s into one service area schedule in its tariff instead of a tariff that is divided into two service area schedules as is the case with HSE's current tariff (one schedule for all of HSE's CTA<sup>2</sup>s except for the Flatfork Creek CTA and one separate schedule for the Flatfork Creek CTA). HSE proposed that the consolidated tariff for all of HSE's CTA<sup>2</sup>s be identified as "Schedule 1" with a uniform SDC of \$4,471 and that all other rates and charges remain unchanged from what the Commission approved in Cause No. 44683. Having found that a uniform SDC of \$4,471 for all of HSE's service areas is appropriate, we approve a consolidated tariff for all of HSE's CTA<sup>2</sup>s that will be identified as "Schedule 1". HSE shall file its revised tariff with its new schedule of rates and charges in accordance with the findings of this Order.

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

1. Hamilton Southeastern Utilities, Inc. is authorized to revise its system development charge to \$4,471 for the Fishers CTA, Flatfork Creek CTA, Noblesville CTA, and Boone County CTA, as discussed above.

2. Prior to placing into effect the revised system development charge approved above, Hamilton Southeastern Utilities, Inc. shall file with the Water/Wastewater Division of the Commission a revised tariff in the form of Petitioner's Attachment KWC-3. The system development charge will become effective upon approval by the Water/Wastewater Division of the Commission.

3. Within 45 days of this Order, Hamilton Southeastern Utilities, Inc. shall refund to customers/applicants who paid the SDC the \$800 portion of the Flatfork Creek SDC as proposed by HSE.

43. This Order shall become effective on and after the date of its approval.

**HUSTON, FREEMAN, KREVDA, OBER, 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 of the Commission**