

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

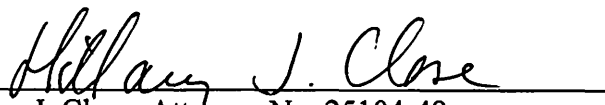
PETITION OF INDIANA-AMERICAN )  
WATER COMPANY, INC. ("INDIANA )  
AMERICAN") FOR (1) APPROVAL OF ITS )  
LEAD SERVICE LINE PLAN PURSUANT TO )  
IND. CODE CHAP. 8-1-31.6 AND (2) )  
APPROVAL OF ASSOCIATED CHANGES )  
TO INDIANA AMERICAN'S RULES AND )  
REGULATIONS FOR WATER SERVICE. )

CAUSE NO. 45043

**SUBMISSION OF PROPOSED ORDER**

Petitioner Indiana-American Water Company, Inc. ("Indiana American"), by counsel, hereby submits its Proposed Order.

Respectfully submitted,

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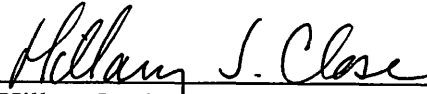
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served this 14th day of  
May, 2018, by electronic transmission to the following:

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Hillary J. Close

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CAUSE NO. 45043

ORDER OF THE COMMISSION

**Presiding Officers:**

**Sarah Freeman, Commissioner**

**David Veleta, Administrative Law Judge**

On January 29, 2018, Indiana American Water Company, Inc. (“Indiana American”) filed its Petition in Cause No. 45043 requesting the Commission for certain approvals of its lead service line plan. On February 12, 2018, Citizen Action Coalition of Indiana (“CAC”) filed its Petition to Intervene, which was granted by Commission docket entry issued February 23, 2018. On February 26, 2018, Schererville Municipal Water Works (“Schererville”) filed its Petition to Intervene, which was granted on the record at the prehearing conference and preliminary hearing.

On April 13, 2018, the Office of Utility Consumer Counselor (“OUCC”), filed its case-in-chief. On April 23, 2018, Petitioner filed its Rebuttal Testimony and Attachments in this Cause.

Pursuant to notice of hearing duly given and published as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, an evidentiary hearing in Cause No. 45043 was held commencing at 9:00 a.m. on May 7, 2018 in Room 222, PNC Center, 101 W. Washington Street, Indianapolis, Indiana. Indiana American, the CAC, Schererville, and the OUCC appeared and participated in the hearing.

Based upon the applicable law and evidence, the Commission now finds:

**1. Notice and Jurisdiction.** Due, legal and timely notice of the public hearing conducted herein was given by the Commission as required by law. Indiana American is a “public utility” within the meaning of that term in Ind. Code § 8-1-2-1 and is subject to the jurisdiction of the Commission in the manner and to the extent provided by law. The Commission has jurisdiction over Indiana American and the subject matter of this proceeding.

**2. Characteristics of the Parties**

**A. Indiana American’s Characteristics.** Indiana American is an Indiana corporation engaged in the provision of water utility service to the public in and around numerous communities throughout the State of Indiana for residential, commercial, industrial, public authority, sale for resale and public and private fire protection purposes. Indiana American also provides sewer utility service in Wabash and Delaware Counties.

**B. CAC’s Characteristics.** CAC is a non-profit corporation with approximately 40,000 members in Indiana.

**C. Schererville’s Characteristics.** Schererville is a municipality located in Lake County, Indiana.

**D. OUCC’s Characteristics.** The OUCC is an agency of the State of Indiana and a statutory party to Commission proceedings that advocates on behalf of ratepayers, consumers and the public.

**3. Relief Requested.** Petitioner filed Cause No. 45043 pursuant to Ind. Code § 8-1-31.6 (“Section 31.6”) and § 8-1-31 and requests that the Commission approve its Customer Lead Service Line Replacement Plan and an Addendum to Section 4 of its Rules and Regulations.

**4. Indiana American’s Direct Evidence.** Petitioner presented direct testimony of Stacy S. Hoffman, Director of Engineering for Indiana American.

**A. Indiana Code § 8-1-31.6-6(a).** Mr. Hoffman testified in support of Indiana American’s Lead Service Line Replacement Plan (“Plan”). He testified that the plan is being submitted under House Enrolled Act No. 1519. Mr. Hoffman explained Indiana House Enrolled Act. No. 1519 was signed into law by Governor Eric Holcomb on April 20, 2017, and made effective as of July 1, 2017. He further testified that House Enrolled Act No. 1519 contains, among other items, the addition of a new chapter to the Indiana Code—IC 8-1-31.6—which establishes a process for water utilities to obtain the authority to replace customer owned lead service lines and recover a return of and on the investments made to replace these lines, even though the lines are not owned by the utility.

Mr. Hoffman testified that IC 8-1-31.6-5(a) provides that “[b]efore a water utility may seek to include customer lead service line improvements as eligible infrastructure improvements for purposes of IC 8-1-31, the water utility must first obtain approval from the Commission of the water utility’s plan for the customer lead service line improvements. To seek approval of the water utility’s plan for the customer lead service line improvements, the water utility shall file with the Commission a petition and case-in-chief, including the information set forth in section 6 of this chapter.” He further testified that IC 8-1-31.6 includes ten specific items that must be addressed in a water utility’s plan for customer lead service line improvements. Mr. Hoffman also testified that the Plan addresses each of the ten items included in IC 8-1-31.6-6 in their own separate section. The items included in each of the IC 8-1-31.6-6 sections are cited and addressed as part of the plan.

**B. Customer Lead Service Line Replacement Plan.** Mr. Hoffman testified regarding Attachment GMV-1. He explained that Attachment GMV-1 is the Customer Lead Service Line Replacement Plan that has been prepared by Indiana American under House Enrolled Act No. 1519. He testified that the Plan is designed to be the document that is followed when replacing customer owned lead service lines under House Enrolled Act No. 1519. Mr. Hoffman further testified that Indiana American personnel met with the Commission Staff and

OUCS staff and the Indiana Consumer Counselor to explain the Plan and receive their feedback in an effort to ensure the Plan is responsive to the questions they had. He also testified that Indiana American met with James McGoff, the Indiana Finance Authority (“IFA”) Director of Environmental Programs, in developing the Plan relative to availability of grants and/or low interest rate loans. Various contractors were also consulted.

Mr. Hoffman testified that a review of Indiana American’s available historic service records indicates that 50,748 lead service lines from the distribution main to the property line may have been present at one time at the addresses identified. He explained that it is anticipated that the number of lead services originally identified from these records will be reduced because a number of these premises may no longer have service or may have been redeveloped with a new address and a new non-lead service line. Moreover, he testified that Indiana American could also discover an additional number of lead services through field investigations of both the Company owned portion of the service lines and the customer owned portion of the service lines.

Mr. Hoffman also testified regarding Indiana American’s time range to complete the customer owned lead service line replacement. He explained that for purposes of this Plan, Indiana American is providing a range of time for completion of all customer owned lead service lines of anywhere from 10 years to 24 years. The total estimated cost to replace an estimated 50,748 customer owned lead services at an average cost of \$3,500 per service in 2017 dollars is \$177,618,000. The range of replacement annually would be 1,000 to 6,000 service lines per year, with an annual cost range of \$5,250,000 to \$17,500,000, again in 2017 dollars. Mr. Hoffman testified that Indiana American has provided such a wide range of time because there are a number of conditions that could affect the timeframe for completion of customer owned lead line replacement. He explained completion will be most affected by the availability of contractors to complete the lead service line replacement. Additionally, the timeframe will be affected by the availability of lower interest rates or no interest financing; the availability of additional capital investment funds from other sources; changes in the main replacement scheduling; the opportunity to take advantage of contractors already mobilized to complete additional lead service line replacements in the area; and the impact on customers, including but not limited to service cost and local street impacts and closing, among other things. He testified that Indiana American intends to replace lead service lines as quickly as is practical and as efficiently as possible, but the actual time frame could vary due to a variety of reasons, several of which are outside of Indiana American’s control.

**C. Addendum to Section 4 of Indiana American’s Rules and Regulations.**

Mr. Hoffman testified that Indiana American is proposing an Addendum to Section 4 of its Rules and Regulations to create a new Section 4.4 (included as Attachment GMV-2) as part of its Plan to address premise locations that have been disconnected and inactive for a period of twenty-four consecutive months or that have been physically disconnected from the Company’s mains. He explained that Indiana American is seeking this change because it has a number of premises where lead service lines are believed to exist that have not been connected for service for twenty-four months or more—essentially no customers exist for these services. Section 4.4 states that any premise (account) with a lead service line that is or becomes inactive for a period of twenty-four consecutive months or that has been physically disconnected from the Company’s mains will not be eligible for service reconnection unless and until the customer replaces the customer portion of the lead service line. He further testified that Indiana American would install a new non-lead service line to the property and require the property owner to install the customer

owned portion of the service line that meets current building code and Indiana American standards before new water service is connected. The customer would also be subject to a connection fee per Indiana American's approved tariffs. Mr. Hoffman testified that Indiana American does not feel that disconnected accounts should be included in the customer replacement, but if there is interest in connecting an account that has been inactive or vacant for a period of more than 24 months, Indiana American looks to ensure that the lines providing water to that service meet today's standards and thus do not utilize any existing lead service lines. He further testified if the Addendum to Section 4.4 of Indiana American's Rules and Regulations were not approved at this time, a customer request to reconnect a service that has not been connected for service for twenty-four months or more would be granted by connecting the new non-lead Company portion of the service line to the existing customer lead service line.

**5. OUCC's Evidence.** Cynthia M. Armstrong testified on behalf of the OUCC. She testified that Indiana American's Plan addresses the 10 criteria included in Ind. Code § 8-1-31.6-6(a). However, the OUCC has concerns regarding both the lack of detail and supporting materials for information presented within the Plan and with Indiana American's proposed execution of certain components of the Plan. Ms. Armstrong testified that the OUCC does not want to prevent Indiana American from beginning its replacement of both company- and customer-owned lead service lines. Ms. Armstrong expressed the following concerns with Indiana American's Plan: (1) Indiana American's description of low interest loans or grants to fund the program; (2) how Indiana American plans to accomplish the replacement of customer owned lead service lines; (3) lack of measures to determine the efficacy of the program; (4) its communication plan to customers with lead service lines; (5) the estimated length and cost of the program; and (6) Indiana American's request to change the eligibility of service requirements for properties that have been inactive for 24 or more consecutive months.

Ms. Armstrong testified regarding the OUCC's concerns with Indiana American's description of low interest loans or grants to fund the program. She explained that the concern involves more the lack of detail describing other potential funding sources that could lower program costs. She testified that this could be rectified through an annual reporting process, where Indiana American provides a status update on its application for the low or zero interest loans or any grants the IFA is making available for lead service line replacement programs. Ms. Armstrong also testified regarding her concerns with how Indiana American plans to replace customer-owned service lines. She explained the main concern with the proposed Plan is that it does not appear to be based on the areas that may currently be the most at risk for higher lead levels. She testified that the replacement order of lead service lines proposed in the Plan is largely driven by Indiana American's existing prioritization model. She recommended that Indiana American be required to incorporate measured lead water levels, as well as the concentration of lead service lines within an area, into its prioritization model for infrastructure improvements. Additionally, she recommended that Indiana American's methods and progress toward incorporating these factors into its prioritization model be reported as part of the Annual Report she recommended for Indiana American's lead service line replacement program. Ms. Armstrong also testified regarding her concerns with the lack of measures to determine the efficacy of the projects. She recommended that Indiana American be required to conduct testing both before and after replacement on a certain percentage of residences participating in the lead service line replacement program. Ms. Armstrong further recommended that the results of such tests should be provided in the recommended Annual Report.

Ms. Armstrong also testified regarding her concerns with Indiana American's plan for communicating its lead service line replacement program and replacement efforts with customers. She explained that she is concerned about the information being presented in the written materials because it contains a lot of information. She testified that the information provided should be simple and easy to understand for all customers. She also testified that Indiana American should be focusing on the face-to-face element of communicating its lead service line replacement efforts with customers and other important state agencies or organizations, like the Indiana State Department Health. Ms. Armstrong explained that customers must be able to speak with Indiana American personnel or contractors who are qualified and knowledgeable enough on project specifics to provide answers to questions that may not easily be answered by the written materials. She also testified that she is concerned about the indemnification language in the agreement and recommended that it be removed from the Water Service Line Replacement agreement. Ms. Armstrong also expressed concerns with both the estimated program cost provided by Indiana American and the program length. She recommended that a reauthorization date of five years be placed on the Plan. Finally, she testified that she does not agree with Indiana American's proposal for Addendum 4.4 of its Rules and Regulations. She explained that the Addendum is not necessary for Indiana American to implement its program. She testified that the 24-month time frame for account inactivity seems arbitrary and could exacerbate urban blight in neighborhoods where there are multiple homes in foreclosure. Ms. Armstrong further testified that if a property re-activates its account, Indiana American can provide the customer with the appropriate educational materials and obtain the customer's signature of acknowledgement that Indiana American has informed the customer of the presence of the lead service line. She recommended that the Addendum 4.4 be denied.

**6. Indiana American's Rebuttal Testimony.**

**A. Information to be Supplied and 5-Year Sunset.** Mr. Hoffman provided rebuttal testimony on behalf of Indiana American. Mr. Hoffman testified that Indiana American is agreeable to providing various categories of information about Plan implementation that Ms. Armstrong outlines. He testified that she is correct that there are potentially other sources of funding that may become available. Mr. Hoffman explained that in Indiana American's Plan, the Company only covered those funding sources that are currently available, but it is agreeable to including status reports on financing options. He further testified that this information is probably most effectively communicated either in work papers or as additional attachments that Indiana American would submit in future DSIC cases. Mr. Hoffman testified that Ms. Armstrong's request that Indiana American follow up with the OUCC 60 days after submitting information is unnecessary. Mr. Hoffman testified that this step is unnecessary because if Indiana American provides the information in the context of DSIC cases, Indiana American will already be in communication with the OUCC and there should be no need for an additional step in the process. Mr. Hoffman testified in response to Ms. Armstrong's request that the program approval sunset after five years. He explained that to make the Plan automatically sunset, and require all of the parties to reconvene for another approval case when no one has identified a need to reopen the Plan, strikes him as unnecessary.

**B. Additional Testing.** Mr. Hoffman testified regarding Ms. Armstrong's request for additional lead testing. He explained Indiana American already collects a first sample immediately after replacing the service line and flushing the service line and the household or facility plumbing system. He further testified that Indiana American also offers

customers an opportunity to collect a second sample within 72 hours after the first sample. Mr. Hoffman explained that many customers have been accepting the second sample opportunity thus far, though some customers either do not accept it or do not follow through with the offer. He also testified that Indiana American also continues system sampling and testing at various tier 1 sites defined by IDEM as part of the Lead and Copper Rule. Mr. Hoffman explained that beyond all of this sampling and testing both for the Lead and Copper Rule, and for each specific service line replacement, Ms. Armstrong suggests that Indiana American perform at least three more sample and test events for each service line replacement, above the two sample and test events Indiana American is already performing as accepted by the customer for each service line replacement. He testified that Ms. Armstrong does not describe the specific purposes for the additional testing, i.e. what value it would add to the process, or how it might provide benefit to customers. Mr. Hoffman explained that testing for lead at sites defined by IDEM is already completed and reported by federal regulation known as the Lead and Copper Rule. He testified that Indiana American's use of corrosion inhibitors in treatment protects the customer prior to lead service line replacement and testing after the replacement confirms water quality.

Mr. Hoffman testified that such additional testing would provide little or no additional value in terms of carrying out the purpose of Indiana American's lead service line replacement plan. He testified that if the intended purpose for the additional testing is to collect data that could be utilized by other utilities or in other contexts, in his view it is not appropriate for Indiana American to conduct such testing at the expense of its customers. Mr. Hoffman also testified that what he believes Ms. Armstrong seeks is better obtained through a scientifically based survey, which would be handled through the commissioning of a study designed and funded either by the State, EPA or a non-governmental organization. He testified that expanded testing not designed for such research purposes, by one utility, is not going to provide data that will be useful or reliable, because it will not be appropriately designed and it is not likely to be statistically significant. Additionally, he explained that such an undertaking would involve significant extra costs for funding research design, additional coordination, travel, sampling and testing activities, and study activities. Mr. Hoffman testified that such additional costs would be reflected in the rates of customers. He recommended that the expanded additional testing Ms. Armstrong desires, and the costs associated therewith, not be added to the cost of replacing customer-owned lead service lines. Rather he recommended that those desiring the additional data should commission and fund a study.

**C. Incorporating Lead in the Prioritization Model and Communications.**

Mr. Hoffman testified that he found acceptable Ms. Armstrong's suggestion that Indiana American incorporate in the prioritization model those service areas that may be testing closer to the action level for the Lead and Copper Rule or that have greater concentrations of lead service lines. He testified that the Company will include in its reporting information how it has done so. He noted that when Indiana American does this, it may result in the lead service line replacement being accomplished at the higher end of the range set forth in its Plan, given that it will be adding weight to how quickly they are replaced.

Mr. Hoffman also testified in response to Ms. Armstrong's suggestions designed to improve communication. He explained that first Indiana American must avoid marketing the plan and second she may not understand some of the things the Company is already doing. He



testified that if Indiana American is overly aggressive in its communications, everyone will want their line replaced immediately. Mr. Hoffman explained that Indiana American needs to communicate in a manner that avoids creating panic or upsetting customers. He testified that communication is important, but it should not rise to the level of a marketing plan. Mr. Hoffman also noted that Indiana American can communicate with the State Department of Health as suggested by Ms. Armstrong, but that it has already communicated with the Governor's Office. He also explained that thus far, customers have been very welcoming of the program, which he believed has been in part due to the effective communication. Mr. Hoffman testified that he thinks a reason the communication and customer participation has been so good thus far, is due to a subject that Ms. Armstrong also highlighted, that is the importance of face-to-face communication. He testified that Indiana American has experienced as Ms. Armstrong suggested, this face-to-face communication has been very helpful for efficiently advancing the replacement process for services replaced thus far. He explained that Indiana American trains its own employees and consultants in interacting with customers face-to-face in this program, and has been communicating face-to-face through these projects with customers who can be helped with that interaction. Mr. Hoffman also testified that Indiana American always trains its employees and consultants that if they cannot immediately answer or resolve a unique question with a customer, that they bring a supervisor or project manager into the conversation to assist. He testified that this is standard protocol for any type of project or activity, not only with the lead service line replacement program.

**D. Indemnification.** Mr. Hoffman testified regarding Ms. Armstrong's proposal on the indemnification clause in the lead service line replacement agreement. He explained that Indiana American and its parent company, American Water, use indemnification language for restoration of private property after company construction projects (e.g. main replacement and main relocation) to mitigate unanticipated and unknown costs. Mr. Hoffman testified that with this program, Indiana American is offering to replace a customer's assets, with a one year warranty on material and workmanship, and site restoration with clearly defined limits. He testified that Ms. Armstrong states a concern for risk shifting, but it is only through the offering of this program that Indiana American would be part of the equation. Currently, the customer bears the entire cost of replacement, any warranty it may obtain, and all of the risk. He explained that Ms. Armstrong further presumed, without support, that the replacement estimates include liability for damage, but removing indemnification language from the agreement, as she recommended, would prevent reliable estimation of liability and instead invite costly dispute.

**E. Proposed Rule 4.4 Addendum and Recovery Through a Fixed Charge.** Mr. Hoffman also testified in response to Ms. Armstrong's request that the proposed rule addendum 4.4 be denied. He testified that this is really a policy call for the Commission to make. He explained that for the most part, these would be premises that are nearly uninhabitable, given that they have been vacant for more than 24 months. He further testified that they will likely be owned by landlords who will rent to tenants and that their communications always involve the property owner, and depending on the circumstances many might not be with the tenant. Thus, all of the information concerning the dangers of lead and the existence of lead lines may not reach the tenant. Mr. Hoffman explained that their reasoning for making the proposal was that if we want to eliminate the lead service lines as quickly as possible in this State, such premises should not be eligible for service until that lead service line has been replaced. Additionally,

given that they have not been customers for the past 24 months, Indiana American felt it was unfair for the Company to replace the lead service line pursuant to the plan in the same fashion as it would the lead service line of any other customer. Mr. Hoffman testified that if the Commission wishes for Indiana American to continue to treat these premises as eligible customers pursuant to Ms. Armstrong's suggestion, that is acceptable. Finally, Mr. Hoffman testified regarding Indiana American's method of recovery. He testified that Indiana American will recover the costs in general rate cases and intervening DIC cases. He explained that the DSIC recovery is set forth by statute and in either event, the Company will address recovery at that time.

## **8. Commission Discussion and Findings on Customer Owned Lead Service Line Replacement Plan.**

Our State's executive and legislative branches have positioned Indiana to be a leader in addressing a public health issue of foremost importance. For more than thirty years, we have known that lead is harmful to ingest, but it wasn't until more recently that the need to perform full lead service line replacements has come to the forefront.

Unfortunately, it took the national crisis in Flint to increase public awareness so as to bring the problem of customer-owned lead service lines into focus. Indiana has responded. Within a span of a few weeks, Indiana took two major steps to addressing this problem. First, the Drinking Water State Revolving Fund ("SRF") developed what is in essence a grants program to help pay for the replacement of customer-owned lines. By reducing the interest rate on an SRF loan, the borrowed amount can be increased without increasing debt service obligations so that the increased principal could help fund the replacement of the customer portion. *See, e.g., City of East Chicago, Cause No. 44826 (IURC 4/26/2017)*. Second, the Governor signed House Enrolled Act 1519, which enacted IC 8-1-31.6 that allows us to approve a utility's plan for replacement of customer-owned lead service lines and thereby authorize the mechanism for funding it. In these two steps, Indiana has provided the mechanisms to address the problem of customer-owned lead service lines so that water utilities can begin tackling this problem in earnest. Addressing the problem of customer owned lead service lines as quickly as reasonably possible has become a policy directive of the State of Indiana, and it is with that background that we approach our determination whether Indiana American's plan is reasonable and in the public interest.

For a plan to be eligible for our approval, a plan must address the following individual categories set forth in IC 8-1-31.6-6(b):

(1) The availability of grants or low interest loans and how the water utility plans to use available grants or low interest loans to help the water utility finance or reduce the cost of the customer lead service line improvements for the water utility and the water utility's customers, including any arrangements for the customer to receive available grants or financing directly.

(2) A description of how the replacement of customer owned lead service lines will be accomplished in conjunction with distribution system infrastructure replacement projects.

(3) The estimated savings in costs per service line that would be realized by the water utility replacing the customer owned portion of the lead service lines versus the anticipated replacement costs if customers were required to replace the customer owned portion of the lead service lines.

(4) The number of lead mains and lead service lines estimated to be part of the water utility's system.

(5) A range for the number of customer owned lead service lines estimated to be replaced annually.

(6) A range for the total feet of lead mains estimated to be replaced annually.

(7) The water utility's proposal for addressing the costs of unusual site restoration work necessitated by structures or improvements located above the customer owned portion of the lead service lines.

(8) The water utility's proposal for:

(A) communicating with the customer the availability of the water utility's plan to replace the customer owned portion of the lead service line in conjunction with the water utility's replacement of the utility owned portion of the lead service line; and

(B) documenting the customer's consent or lack of consent to replace the customer owned portion of the lead service line.

(9) The water utility's proposal concerning whether the water utility or the customer will be responsible for future replacement or repair of the portion of the new service line corresponding to the previous customer owned lead service line.

(10) The estimated total cost to replace all customer owned portions of the lead service lines within or connected to the water utility's system and an estimated range for the annual cost to be incurred by the water utility under the water utility's plan.

Indiana American's plan includes a recitation of each of these elements and a description of how the plan addresses the element in question. For ease of reference, a copy of Indiana American's customer owned lead service line plan ("Plan") is attached hereto as Attachment A. There has been no dispute and we find that Indiana American's Plan addresses the required categories. We now proceed to address the additional suggested improvements suggested by Ms. Armstrong as they relate to the public interest.

a. Additional Testing.

We appreciate and we share Ms. Armstrong's desire for more information about lead and the results and effects from replacing lead service lines, but we also appreciate and share Mr. Hoffman's opinion that such testing, to be meaningful, must be scientifically designed and not limited to one particular water utility. More information and implementation of best practices is an important goal we should set, but we must assure that we are appropriately responding to information rather than simply and sporadically gathering data. During rebuttal, Mr. Hoffman shared information about Water Research Foundation (WRF) Study #4713, now commencing, in which Indiana American is planning to participate along with approximately twenty other water utilities in the United States and Canada. The study focuses on whole house flushing protocols in conjunction with full lead service line replacements. The study is designed by two engineering firms and builds off of prior WRF studies. It will include pre-work sampling and testing, and post work sampling and testing. The WRF study will involve much greater coordination, and a larger data set as the study includes 21 water utilities in the United States and Canada. Further, it has been designed specifically to gather information for the purpose of developing best practices during and after lead service line replacements to reduce or eliminate potential lead exposure from drinking water. The study will also provide reliable and readable guidance for public water supply staff, and information and recommendations on best practices for communicating with customers. Mr. Hoffman testified that the Company plans to incorporate best practices that result from Study #4713 into its Plan, and to the extent the study results indicate a modification is needed, the Company would seek a modification of the Plan. We find that Indiana American should participate in this study, and that it should share the results of the study with the OUCC and with this Commission when available. We further find that applicable best practices that are developed from this study should be adopted by Indiana American and, to the extent it would require plan modification, Indiana American should seek a modification of its Plan. The information developed from the study should be supplied in the context of future DSIC cases, a subject we will address later. We find this is the appropriate modification to the Plan that is reasonable and appropriate to address Ms. Armstrong's concerns.

b. Prioritization Model.

Ms. Armstrong suggested that lead and lead levels somehow be incorporated into Indiana American's prioritization model for distribution system improvements. Mr. Hoffman indicated this was an acceptable improvement to the Plan and that the Company could provide further updates on how this incorporation will be accomplished. The updates would be supplied in connection with the information that the Company supplies in future DSIC cases. We find that this is an enhancement of the Plan that should be made. We find the incorporation should include: (1) the percentage of services in a particular area that are lead; (2) areas where Lead and Copper Rule results are closer to the action level; and (3) "critical customers" (for example hospitals, schools, nursing homes, etc.).

c. Information Updates.

In addition to the information concerning the WRF Study and the incorporation of lead service lines into the prioritization model, we find that Indiana American should also keep the Commission and the OUCC informed about the availability of funding for its Plan and the status of applications for any such funding. We agree with Mr. Hoffman that the best mechanism for

providing this information is as an additional workpaper or testimony in future DSIC cases, given that the costs associated with the Plan are recoverable through the DSIC.

d. Length of Plan Approval.

Ms. Armstrong has requested that our approval expire automatically after five years and that a new proceeding then be convened to re-approve the Plan. We find this to be unnecessary. As noted previously, our State has directed that it is a policy directive that customer-owned lead service lines be replaced and that this be accomplished as quickly as reasonably possible. Without a good reason for doing so, we see no value to be added from requiring a second round of regulatory approvals. This would delay service line replacement and would instead draw funds away from service line replacement, which is the State's primary goal. As Mr. Hoffman noted, the Commission and the OUCC will be continually updated on the progress of plan implementation through periodic DSIC filings. If at any point the OUCC or this Commission believes there is a need to reconsider aspects of the Plan, there are statutory mechanisms in place to do that. (e.g., IC 8-1-2-54, -58, -59, and -72) Accordingly, we find that putting an automatic sunset on plan approval is not in the public interest.

e. Indemnification.

Ms. Armstrong objected to the indemnification provision that was included in the standard contract that Indiana American will use when it replaces a customer owned lead service line. As noted in Mr. Hoffman's rebuttal testimony, in the absence of this program, the customer bears the entire cost of replacement, any warranty it may obtain, and all of the risk. Indiana American is offering to assist with the cost and warranty, and the customer retains the right to reject the offer. For purposes of this proceeding, however, we find that the specific provisions of the contract are not part of the actual plan which we are being asked to approve. Accordingly, we neither approve nor reject the specific terms of the contract, which therefore obviates the need for us to make a determination on whether the terms of a particular indemnification provision are appropriate or not.

f. Overall finding on Indiana American's Plan.

With the enhancements we have found to be appropriate in this Finding Paragraph No. 8, we find Indiana American's customer-owned lead service line plan to be reasonable and in the public interest. Subject to the estimated total cost to replace all customer owned portions of the lead service lines within or connected to Indiana American's system and the estimated range for the annual cost as described in Indiana American's Plan, in general rate cases Indiana American shall for ratemaking purposes add to the value of its property for purposes of IC 8-1-2-6 the actual costs incurred by it in replacing the customer owned portion of the lead service lines and in removing customer owned lead service lines from service in accordance with the Plan we have approved, notwithstanding the continued ownership of the service line by the customer. Further and again subject to the estimates and range set forth in the Plan, Indiana American may include the actual costs it incurs in connection with completing customer lead service line improvements that: (1) have been placed in service; and (2) have not been included in Indiana American's rate base in its most recent general rate case as eligible infrastructure improvements for purposes of

IC 8-1-31. For purposes of the revenue limitation calculation under IC 8-1-31-13, infrastructure improvement costs associated with customer lead service line improvements shall not be counted as adjustment revenues in determining whether Indiana American's total adjustment revenues exceed ten percent (10%) of its base revenue level approved in its most recent general rate case.

**9. Commission Finding On Proposed Rule Addendum 4.4.**

Separate from the actual plan but related to it, Indiana American also seeks a modification to its rules and regulations of service to add Addendum 4.4, which would deny service availability to certain inactive accounts that continue to have a lead service line. Specifically, the modification would address premise locations that have been disconnected and inactive for a period of twenty-four consecutive months or that have been physically disconnected from the Company's mains (e.g., in the case of theft of water). If such a premises has a lead service line, service would not be available unless and until the owner replaces the lead service line on their property. The reasoning is that disconnected accounts, i.e. non-customers as described above, should not be included in the plan, but if there is interest in connecting an account that has been physically disconnected or has been inactive or vacant for a period of more than 24 months, Indiana American looks to ensure that the lines providing water to that service meet today's standards and thus do not utilize any existing lead lines. Ms. Armstrong objected to this limitation of service availability and contended that so long as the prospective customer was advised of the existence of the lead service line on their property and still requested service, it should be provided. We see two problems with the OUCC's objection to this rule change. First, we would expect that frequently the "customer" in such cases will be a landlord and not the actual occupant of the premises that would be exposed to any risk from the existence of the lead service line. Thus we are concerned that notification would be insufficient. Second, the State's policy directive is that lead service lines be eliminated, as quickly as reasonably possible. Allowing an owner of a property that has been inactive for more than two years or has had their service physically disconnected from the distribution system to restore service without replacing the lead service line is inconsistent with this objective. Accordingly, we find that Indiana American's proposed Addendum 4.4 should be approved.

**10. Confidentiality.**

Indiana American filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information on April 23, 2018, which was supported by the Affidavit of Stacy S. Hoffman showing the information to be submitted to the Commission was confidential due to the confidential, proprietary, competitively sensitive and trade secret nature of the information. The Presiding Officers issued a Docket Entry on May 2, 2018, finding such information to be preliminarily confidential, after which such information was submitted by the OUCC under seal. No party objected to the confidential and proprietary nature of the information submitted under seal in this proceeding. We find all the information is confidential pursuant to Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3, is exempt from public access and disclosure by Indiana law, and shall continue to be held confidential and protected from public access and disclosure by the Commission

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

1. With the enhancements we have approved as described in Finding Paragraph No. 8, Indiana American's plan for customer owned lead service line replacements attached hereto as Attachment A shall be and hereby is approved.

2. Indiana American's proposed Addendum 4.4 to its Rules and Regulations of Service in the form submitted as Attachment GMV-2 shall be and hereby is approved. Indiana American shall submit a revised page to its Rules and Regulations of Service to the Commission's Engineering Division.

3. This Order shall be and hereby is effective upon and after the date of its approval.

**HUSTON, FREEMAN, OBER, AND ZIEGNER CONCUR:**

**APPROVED:**

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

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Mary M. Becerra  
Secretary to the Commission