

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**VERIFIED PETITION OF SOUTHERN INDIANA GAS)
AND ELECTRIC COMPANY D/B/A CENTERPOINT)
ENERGY INDIANA SOUTH FOR: (1) APPROVAL OF AND)
A CERTIFICATE OF PUBLIC CONVENIENCE AND)
NECESSITY FOR FEDERALLY MANDATED NATURAL)
GAS TRANSMISSION, DISTRIBUTION AND STORAGE)
PROJECTS (THE “COMPLIANCE PROJECTS”), AND)
THE COSTS THEREOF, RELATED TO PETITIONER’S)
COMPLIANCE WITH VARIOUS FEDERALLY)
MANDATED REQUIREMENTS RELATED TO NATURAL)
GAS PIPELINE SAFETY AND INTEGRITY; (2))
APPROVAL OF PETITIONER’S 5-YEAR PLAN FOR)
TRANSMISSION, DISTRIBUTION AND STORAGE)
SYSTEM IMPROVEMENTS PURSUANT TO IND. CODE)
CH. 8-1-39 (“TDSIC PLAN”) (AND FOR COMPLIANCE)
PROJECTS, IN THE EVENT AND TO THE EXTENT THE)
COMMISSION CONCLUDES THAT SUCH PROJECTS)
DO NOT MEET THE REQUIREMENTS OF IND. CODE)
CH. 8-1-8.4); (3) AUTHORIZE TDSIC TREATMENT AS)
PROVIDED IN IND. CODE CH. 8-1-39 FOR THE)
NATURAL GAS TRANSMISSION, DISTRIBUTION AND)
STORAGE SYSTEM IMPROVEMENTS (AND THE)
COSTS THEREOF) SET FORTH IN PETITIONER’S)
TDSIC PLAN; (4) APPROVAL OF PETITIONER’S USE OF)
ITS COMPLIANCE AND SYSTEM IMPROVEMENT)
ADJUSTMENT (“CSIA”) MECHANISM AND RELATED)
ACCOUNTING DEFERRALS, PURSUANT TO IND. CODE)
CHS. 8-1-8.4 AND 8-1-39, FOR THE TIMELY RECOVERY)
AND DEFERRAL OF COSTS RELATED TO SUCH)
COMPLIANCE AND TRANSMISSION, DISTRIBUTION)
AND STORAGE PROJECTS (INCLUDING FINANCING)
COSTS INCURRED DURING CONSTRUCTION); AND (5))
APPROVAL OF OTHER RELATED RATEMAKING)
RELIEF AND TARIFF PROPOSALS CONSISTENT WITH)
IND. CODE CHS. 8-1-8.4 AND 8-1-39.)**

CAUSE NO. 45612

ORDER OF THE COMMISSION

Presiding Officers:

Sarah E. Freeman, Commissioner

Lorraine L. Seyfried, Chief Administrative Law Judge

NOTE: OUCC'S PROPOSED ORDER IS PRESENTED AS A REDLINE OF CENTERPOINT'S PROPOSED ORDER. CENTERPOINT'S PROPOSED SECTIONS 5-C-2 AND 5-E-2 HAVE BEEN REMOVED IN THEIR ENTIRETY AND REPLACED.

On September 10, 2021, Southern Indiana Gas and Electric Company d/b/a CenterPoint Energy Indiana South ("Petitioner," "Company," or "CEI South") filed its petition and case-in-chief with the Indiana Utility Regulatory Commission ("Commission") requesting, among other things, authorizations and approvals for the following: -(1) a certificate of public convenience and necessity ("CPCN") for certain natural gas transmission, distribution, and storage projects (and costs thereof) to allow compliance with federally mandated requirements ("Compliance Projects"); (2) Petitioner's 5-year plan for transmission, distribution, and storage improvements pursuant to Ind. Code ch. 8-1-39 ("TDSIC Plan"); (3) TDSIC treatment as provided in Ind. Code ch. 8-1-39 for the natural gas transmission, distribution, and storage improvements (and the costs thereof) set forth in Petitioner's TDSIC Plan; (4) use of its rate adjustment mechanism for recovery of certain costs for the Compliance Projects and TDSIC Plan and deferral of remaining costs ("CSIA"); and (5) other related ratemaking relief and tariff proposals.

A Petition to Intervene was filed by Citizens Action Coalition of Indiana, Inc. ("CAC"). The Presiding Officers granted the petition, and the Intervenor was made a party to this Cause.

On December 2, 2021, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its direct testimony and exhibits constituting its case-in-chief. On December 22, 2021, CEI South filed its rebuttal testimony.

An evidentiary hearing was held in this matter on January 19, 2022, at 10:30 a.m., in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, the prefiled evidence of CEI South and the OUCC was admitted into the record without objection. No members of the general public appeared or participated at the hearing.

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

1. **Notice and Commission Jurisdiction.** Notice of the hearing in this Cause was given and published by the Commission as required by law. Petitioner is a public utility as that term is defined in Ind. Code § 8-1-2-1(a) and an energy utility as defined in Ind. Code § 8-1-8.4-3. Under Ind. Code ch. 8-1-8.4 ("Compliance Statute"), the Commission has authority to issue a CPCN and to approve cost recovery for projects necessary to comply with federally mandated requirements. Under Ind. Code §§ 8-1-39-10 and 8-1-39-11, the Commission has jurisdiction over a public utility's plan for eligible transmission, distribution, and storage improvements, including targeted economic development ("TED") projects and extension of gas service in rural areas. Under the Compliance Statute, Ind. Code ch. 8-1-39 ("TDSIC Statute"), and Ind. Code § 8-1-2-42, the Commission has authority over certain changes to CEI South's rates and charges. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. **Petitioner’s Characteristics.** Petitioner is an Indiana operating public utility incorporated under the laws of the State of Indiana. Petitioner has its principal office at 211 N.W. Riverside Drive, Evansville, Indiana 47708. Petitioner has charter power and authority to engage in, and is engaged in, the business of rendering gas distribution service within the State of Indiana under indeterminate permits, franchises, and necessity certificates heretofore duly acquired. Petitioner owns, operates, manages, and controls, among other things, plant, property, equipment, and facilities, which are used and useful for the production, storage, transmission, distribution, and furnishing of gas utility service to approximately 114,000 customers in southwestern Indiana.

3. **Requested Relief.** By its Petition, CEI South requests the following relief:

(1) Approval granting a CPCN for the Compliance Projects (and the costs thereof) designed both to improve the safety, reliability, and integrity of Petitioner’s transmission and distribution pipeline systems and to allow compliance with federally mandated requirements;

(2) Approval of Petitioner’s 5-year TDSIC Plan (and any Compliance Projects, in the event and to the extent that the Commission concludes that any such project does not meet the requirements of Ind. Code ch. 8-1-8.4);

(3) Authorization of TDSIC treatment as provided in Ind. Code Ch. 8-1-39 for natural gas transmission, distribution, and storage improvements (and the costs thereof) set forth in Petitioner’s TDSIC Plan;

(4) Approval of the use of Petitioner’s CSIA rate adjustment mechanism for timely recovery of 80% of the approved federally mandated costs of the Compliance Projects and approved capital expenditures and TDSIC costs of the TDSIC Plan, including financing costs incurred during construction;

(5) Authorization of the deferral of 20% of the approved federally mandated costs for the Compliance Projects and approved capital expenditures and TDSIC costs for the TDSIC Plan, and interim deferrals of such costs, until such costs are reflected in Petitioner’s retail rates; and

(6) Approval of other related ratemaking relief and tariff proposals.

4. **Evidence Presented.**

A. **CEI South’s Case-in-Chief.** Richard C. Leger, Vice President of Operations for the Indiana and Ohio natural gas service territories for CenterPoint Energy, Inc., the ultimate parent company of CEI South, testified that CEI South’s proposal as designed will facilitate compliance with regulations, as well as improve public safety and reliability. -Petitioner’s Exh. 1 (“Leger Direct”), p. 6. He testified the proposal falls into three broad categories: (1) compliance projects undertaken to meet transmission integrity management program (“TIMP”), distribution integrity management program (“DIMP”), and storage integrity management program (“SIMP”) mandates; (2) additional programs that have been identified that should be undertaken

to improve system safety and reliability; and (3) programs that support economic development. *Id.* Mr. Leger explained CEI South is seeking approval in this case of both projects proposed pursuant to the Compliance Statute (“Compliance Projects”) and the Company’s 5-year plan for eligible transmission, distribution, and storage system improvements needed for the purposes of safety, reliability, or economic development (“TDSIC Projects”) submitted pursuant to the TDSIC Statute (“TDSIC Plan”). *Id.* He testified the federally mandated costs associated with the Compliance Projects and approved capital expenditures and TDSIC costs associated with the TDSIC Plan would be reflected in CEI South’s existing Compliance and System Improvement Adjustment (“CSIA”) mechanism. *Id.* Mr. Leger also introduced CEI South’s other witnesses and the topics each witness covers. *Id.*, p. 9.

Mr. Leger testified CEI South is undertaking the Compliance Projects to allow compliance with Pipeline and Hazardous Materials Safety Administration (“PHMSA”) regulations, which are “federally mandated requirements” under Ind. Code § 8-1-8.4-5. *Id.*, pp. 13-14. Mr. Leger testified that CEI South chose to seek relief for the Compliance Projects under the Compliance Statute because they are mandatory and including them within the TDSIC Plan would suggest that they are open to judgment and debate as to necessity. *Id.*, p. 14. He testified the proposed Compliance Projects also improve public safety and system reliability, as replacing older facilities or modifying pipelines in order to facilitate more comprehensive and effective testing and assessment of their condition improves safety and reliability over time. *Id.*, p. 15.

Mr. Leger also testified regarding how the proposed investments included in the Compliance projects and TDSIC Plan are beneficial to customers. *Id.*, pp. 15-17. He testified the Compliance Projects and investments included in the TDSIC Plan to improve the operation of CEI South’s assets provide benefits to its customers, including: (1) prioritized actions to mitigate risks; (2) allowing advance notice to cities and customers through planning; (3) the systematic approach to these programs spreads costs over a planned period of time so that the resulting customer bill impacts are implemented gradually over time; (4) job creation at a time when economic growth is highly desirable; (5) a safe and reliable system serves existing customers better and is needed to obtain new business; (6) long-term reduced construction costs; and (7) reduced methane emissions, which improves the environment and may reduce costs linked to greenhouse gas (“GHG”) regulations. *Id.* Mr. Leger described the economic benefits derived from the planned investments, including job creation and extension of infrastructure to serve rural areas, and the importance of these investments. *Id.*, p. 18. He testified that job creation and extension of infrastructure to serve customers in rural areas so that they may enjoy the benefits of low-cost gas are key benefits resulting from the TDSIC Statute. *Id.*

Mr. Leger summarized that in this proceeding, CEI South seeks a finding that: (1) public convenience and necessity require that it proceed with the Compliance Projects and TDSIC Plan proposed in this Cause, and (2) CEI South should be allowed to continue to use the CSIA mechanism to provide timely recovery of 80% of the costs incurred. *Id.*, p. 21. Mr. Leger testified as part of its review in this proceeding, the Commission should also determine that CEI South has provided a best estimate of the costs for projects included in the 5-year TDSIC Plan and that the TDSIC Projects provide incremental benefits such as ensuring the safe and reliable provision of services to customers that justify the costs. *Id.* He testified the Commission should also determine

that the Compliance Projects allow for compliance with federal mandates and benefits such as ensuring the safe and reliable provision of services to customers. *Id.*

Steven A. Hoover, Director of Gas Engineering, summarized CEI South's Compliance Projects and TDSIC Plan. Mr. Hoover testified the Compliance Projects in this Cause consist of the Transmission Modernization ("TMOD") Project, Distribution Modernization ("DMOD") Project, Bare Steel and Cast Iron ("BSCI") Replacement Project, and Storage Modernization ("SMOD") Project. Each project includes multiple work orders, which are specific, defined scopes of work to mitigate an identified risk. Petitioner's Exh. 2 ("Hoover Direct"), p. 12. Table SAH-1 in Mr. Hoover's testimony set forth CEI South's Compliance Project estimated investment amounts by year for the period 2022-2026. *Id.*, p. 13. This table showed a total of \$230.38 million in investments for all Compliance Projects over the 5-year period. *Id.* Mr. Hoover described each of the TMOD, DMOD, BSCI, and SMOD Compliance Projects and the individual project categories included within each.

With respect to CEI South's TDSIC Plan, Mr. Hoover testified the TDSIC Plan consists of: (1) work orders designed to maintain or enhance the safety and reliability of the natural gas infrastructure (the "safety and reliability project"); (2) work orders required to relocate and ensure the safety of gas infrastructure due to state or municipal road, drainage, or other public work (the "public improvement project"); (3) work orders to support the extension of natural gas energy to residential areas currently without access to natural gas (the "rural extension project"); and (4) work orders to support targeted economic development (the "targeted economic development project"). Table SAH-5 in Mr. Hoover's testimony set forth CEI South's TDSIC Plan estimated costs by year for the period 2022-2026. This table showed a total of \$49.45 million in investments for all TDSIC Plan projects over the 5-year period. Mr. Hoover described each of the TDSIC Plan projects and the work orders associated with each. Mr. Hoover also described the individual benefits associated with each project category. *Id.*, pp. 12-21.

Mr. Hoover also discussed the capital investment planning and cost estimating processes associated with the Compliance Projects and the TDSIC Plan. *Id.*, p. 39. He testified CEI South employs a standardized, robust planning and budgeting process that engages stakeholders from integrity management, field operations, fleet, facilities, finance, and engineering to develop and maintain the capital investment plan ("CIP"). *Id.* He testified the Compliance Projects and TDSIC Plan are components of the 2022-2026 capital investment plan. *Id.* Mr. Hoover also provided an in-depth description of the methodology CEI South used to develop the cost estimates for the work orders that make up the Compliance Projects and TDSIC Plan in this Cause. *Id.*, pp. 46-48. He explained that projects planned to be completed in the first year were designed to a AACE Class 2 cost estimate criteria and the remaining projects were designed to AACE Class 4 estimate criteria. *Id.*, 48-49. Mr. Hoover testified this level of detail is consistent with the "best estimate" requirements of the TDSIC Statute. *Id.*, p. 47. Mr. Hoover testified CEI South also engaged external engineering firms to assist in the development of some of the cost estimates. *Id.*, pp. 51-52,

Mr. Hoover discussed the concepts of escalation and contingency and explained how these costs were incorporated into the cost estimates. *Id.*, pp. 52-54. With respect to escalation, Mr. Hoover testified CEI South used an escalation factor of 2.4% per year starting in 2023 to account

for inflation of material, labor, and services costs. *Id.* With respect to contingency, Mr. Hoover testified appropriate levels of contingencies were added to each project cost estimate depending on the completeness of the work scope and detailed engineering and complexity of the individual project. *Id.* He testified it is important to include contingency in cost estimates in order to provide accurate and complete estimates. He also testified it is a common estimating practice to include both contingency and the application of class estimate ranges. *Id.*

Mr. Hoover explained how the eligible TDSIC projects are justified by the incremental benefits attributable to the TDSIC Plan. He testified the total estimated cost of the safety and reliability project is \$37 Million. *Id.*, pp. 56-57. He testified the two storage field compressor installations for system reliability account for approximately 39% of the system improvement estimated costs and are necessary to provide redundancy to existing decades old compression equipment. *Id.* He further testified the Vanderburgh Industrial Park to US41 pipeline project directly supports growth in the park and development along the US41 corridor north of Evansville and represents a significant portion of the TDSIC Plan system improvement estimate cost. *Id.* He testified that beyond these larger work orders, the TDSIC Plan provides multiple safety, reliability, and economic benefits to employees, customers, and the communities CEI South serves. *Id.* He explained these projects are identified and prioritized using an advanced hydraulic modeling application used to identify projects that are necessary to address current or projected (within the next five years) reliability issues primarily reflected by system pressure or capacity limitations. *Id.*, p. 29. He testified these projects: (1) ensure the general safety of customers by providing an energy source for space heat and/or the generation of electricity to meet human needs; (2) ensure adequate gas pressure and supplies are available for existing commercial and industrial customer process or production needs, general demand growth from existing customers, and demand from new customers; and (3) minimize the potential for gas system outages caused by low gas pressures or insufficient gas quantities, which negatively impact human needs and businesses' ability to produce products. *Id.*, pp. 24-25. He testified that without these projects, there is a likelihood that reliability will suffer. *Id.*, p. 30. Mr. Hoover cautioned that gas system outages resulting from inadequate supply or low pressure can directly impact critical human needs services—space heat, electric generation, etc.—or significantly impair commercial and industrial production and the economy. *Id.*

Mr. Hoover also described the benefits associated with the public improvement, rural extension projects, and TED projects included in the TDSIC Plan. He testified, however, that in his judgment, the incremental benefits from the larger TDSIC Plan work orders alone justify the costs of CEI South's TDSIC Plan. *Id.*, p. 57. Mr. Hoover also summarized the benefits associated with the projects included in CEI South's Compliance Projects. *Id.*, pp. 59-60. He testified every work order included in this Cause is necessary to support compliance with pipeline safety regulations and provide reliability and safety benefits to CEI South's customers, employees, and the public in the vicinity of the projects and assets. *Id.*

Adam M. Gilles, Regional Operations Director, testified regarding Petitioner's proposed Compliance Projects. Mr. Gilles summarized the federal regulations causing the need for Petitioner's Compliance Programs and the Compliance Projects. Petitioner's Exh. 3 ("Gilles Direct"), pp. 7-10. He provided a chronological history of the federal mandates associated with pipeline safety regulations, and the significant changes that have been made to these regulations

since 2002 *Id.* He testified that CEI South's Compliance Programs were developed to allow the Company to comply with these federally mandated pipeline safety regulations including TIMP, DIMP, SIMP, Safety Management Systems ("SMS"), and other assorted pipeline safety rules. *Id.*, p. 10. He testified that under these programs, CEI South developed the TMOD, DMOD, BSCI, and SMOD Compliance Projects to allow the Company to comply with these federally mandated pipeline safety regulations. *Id.*, p. 11.

Mr. Gilles testified the Compliance Projects and the work orders underlying the Projects are all being undertaken by CEI South and are related to direct or indirect compliance with requirements imposed on CEI South by the federal government in connection with regulations concerning the integrity, safety, or reliable operation of transmission or distribution pipeline facilities. *Id.*, p. 25. Mr. Gilles' testimony provides a detailed analysis of why the Compliance Projects meet PHMSA requirements, and therefore, why the Compliance Projects are eligible under Ind. Code ch. 8-1-8.4. *Id.*, pp. 15-25. Finally, Mr. Gilles also briefly summarized future potential compliance obligations. *Id.*, pp. 25-27.

Brittany A. Fleig, Manager of Regulatory Reporting, testified regarding the calculation of the revenue requirement and accounting treatment related to CEI South's Compliance Projects and TDSIC Plan. Ms. Fleig explained the Compliance Projects are federally mandated and thus qualify for timely cost recovery and deferred accounting treatment under the Compliance Statute. Petitioner's Exh. 4 ("Fleig Direct"), pp. 7-8. She testified the Compliance Statute allows for timely recovery of eighty percent (80%) of the approved federally mandated costs through a periodic retail rate adjustment mechanism (Ind. Code § 8-1-8.4-7(c)(1)). *Id.* CEI South is proposing to include these costs in the Compliance Component portion of the CSIA, with the remaining twenty percent (20%) deferred and recovered by the Company as part of its next general base rate case (Ind. Code § 8-1-8.4-7(c)(2)). *Id.* She further testified the TDSIC Statute provides for timely recovery of 80% of the approved capital expenditures and TDSIC costs via a periodic, automatic adjustment of the utility's rates (Ind. Code § 8-1-39-9(a)). *Id.* CEI South is proposing to include the costs associated with the TDSIC Plan in the TDSIC Component portion of the CSIA, with the remaining 20% deferred and recovered by the Company as part of its next general base rate case (Ind. Code § 8-1-39-9(b)). *Id.* Ms. Fleig also explained the CSIA will recover the remaining unrecovered balance of operation and maintenance ("O&M") expense that has been deferred for later recovery through the CSIA pursuant to the Commission's Order dated August 27, 2014, in consolidated Cause Nos. 44429 and 44430 ("44429/44430 Order"). *Id.*, p. 9.

Ms. Fleig testified regarding the accounting treatment CEI South is requesting in this case and explained how the proposed accounting treatment is authorized by the Compliance Statute and TDSIC Statute. Ms. Fleig testified the proposed weighted average cost of capital ("WACC") to be utilized for the Compliance Component will be the rate approved in CEI South's last base rate case. *Id.*, p. 11. She further testified the WACC utilized in the TDSIC Component will be based upon the most recent actual calendar-year-ended capital structure. *Id.* Ms. Fleig also explained how the Compliance and TDSIC Component revenue requirements will be calculated. She testified the TDSIC Statute states: "The commission may not approve a TDSIC that would result in an average aggregate increase in a public utility's total retail revenues of more than two percent (2%) in a twelve (12) month period." (Ind. Code § 8-1-39-14(a)). *Id.*, p. 23. Ms. Fleig testified CEI South does not expect to exceed the 2% cap during the life of the TDSIC Plan. *Id.*, p. 24.

Katie J. Tieken, Director of Regulatory and Rates, discussed ratemaking treatment and the importance of continuing to use the CSIA mechanism. In addition, she testified regarding how costs will be allocated to customers. Petitioner's Exh. 5 ("Tieken Direct"), p. 13. -Ms. Tieken testified the Company is proposing no changes to the rate design approved in Cause Nos. 44429/44430. *Id.*, pp. 12-13. -She explained that customers receiving service under Rate 210 (Residential Sales Service) pay a fixed CSIA charge each month and customers receiving service under all other Rate schedules pay a volumetric (per therm) CSIA rate. *Id.* -With respect to how CSIA costs are allocated to the Rate Schedules, Ms. Tieken testified that allocators for the TDSIC Component of CEI South's CSIA mechanism will be based on total revenues, and allocators for the Compliance Component will be based on the non-gas revenues from CEI South's most recently filed base rate case in Cause No. 45447. *Id.*, p. 13.- Ms. Tieken testified this is consistent with CEI South's Rate Case Settlement Agreement in Cause No. 45447. *Id.*

Ms. Tieken also explained how CEI South will calculate the average aggregate increase in its total retail revenues attributable to the TDSIC Plan to ensure the TDSIC Plan will not result in an average aggregate increase of more than 2% in a twelve-month period. *Id.*, pp. 16-17. -Ms. Tieken testified CEI South will provide a schedule comparing the increase in the TDSIC Component revenue requirement to the prior 12-month retail revenues for CEI South to ensure the amounts included for recovery in the CSIA adhere to the statutory requirements. *Id.*

B. OUCC's Case-in-Chief. Heather R. Poole, Assistant Director of the Natural Gas Division for the OUCC, testified regarding Petitioner's requested relief. Ms. Poole recommended approval of CEI South's use of the CSIA rate adjustment mechanism for timely recovery of 80% of the federally mandated costs of the Compliance Projects and the capital costs and TDSIC costs of the TDSIC Projects, including financing costs incurred during construction, with a few adjustments. Public's Exh. 1 ("Poole Direct"), p. 1. Related to the Compliance Component, Ms. Poole recommended CEI South use the WACC as approved in the most recent base rate case in Cause No. 45447 for its TDSIC-1 filing. *Id.*, p. 17. In TDSIC-2 and each TDSIC filing going forward, she recommended CEI South update the WACC in the Compliance Component to the most recently approved WACC from the TDSIC Component. *Id.* Further, related to the TDSIC Component, Ms. Poole recommended CEI South update its capital structure as of the date of valuation of the utility's expenditures for which it is seeking ratemaking treatment, with the cost of equity remaining constant from the last general rate case in Cause No. 45447. *Id.* Related to rate design, Ms. Poole recommended residential customers be charged a volumetric rate similar to the other rate classes. *Id.*

Ms. Poole also recommended approval of the proposed costs to be recovered through the Compliance Component and the TDSIC Component. *Id.* -She further recommended approval of CEI South's request to include the unrecovered deferred O&M expenses in the first two CSIA tracker filings. *Id.* She agreed with CEI South's proposal to continue providing the replacement program filings with each April TDSIC filing. *Id.* Ms. Poole also recommended approval of the cost allocation factors proposed by CEI South. *Id.* She further recommended using the first semi-annual tracker filing under this Cause to reconcile the over or under-recovery variances from Cause No. 44429 TDSIC-13 and TDSIC-14. *Id.* Finally, Ms. Poole recommended approval of the proposed procedural schedule for future tracker filings. *Id.*

Brian R. Krieger, Utility Analyst in the Natural Gas Division of the OUCC, also testified regarding CEI South's proposal. Mr. Krieger recommended the Commission approve Petitioner's CSIA Plan and issue a CPCN to CEI South for its federally mandated Compliance Projects and approve the TDSIC Projects within the TDSIC Plan. Public's Exh. 2 ("Krieger Direct"), p. 2. He testified he recommended approval because Petitioner met the statutory requirements for the Compliance Projects and TDSIC Projects in this proceeding. *Id.* However, he recommended contingency should be removed from the project estimates because it is not necessary for a best estimate. *Id.*, 13. He ultimately recommended all contingency dollars be removed from the project estimates, and, if the Commission allows some contingency, he recommended Petitioner's proposed E&S/A&G and escalation percentages be applied to Petitioner's project estimate before any approved after removing any contingency dollars allows. *Id.*, p. 17. He also made recommendations regarding CEI South's Update process. *Id.*, p. 18.

Ultimately, he testified the PHMSA rules are federally mandated requirements and Petitioner's proposed Compliance Projects meet the PHMSA rules and the associated costs are federally mandated costs. *Id.*, p. 19. Further, he testified the TDSIC Projects meet the TDSIC Project statute and CEI South's CSIA Plan meets the Indiana Code requirements for Compliance Projects and TDSIC Projects. *Id.*, 19.

C. CEI South Rebuttal. Ms. Tieken responded to Ms. Poole's recommendations regarding Petitioner's WACC and rate design. Ms. Tieken testified CEI South agrees with Ms. Poole's recommendation to update the WACC for the Compliance Component to the most recently approved WACC from the TDSIC Component. Petitioner's Exh. 5-R ("Tieken Rebuttal"), p. 5. Further, she testified CEI South agrees to update the WACC for the TDSIC Component in each semi-annual TDSIC filing to reflect the WACC as of the date of valuation for CEI South's expenditures in each six-month filing. *Id.*, p. 6.

Ms. Tieken testified she disagreed with Ms. Poole's recommendation that CEI South collect the CSIA charge from residential customers via a volumetric rate instead of a fixed monthly charge. *Id.*, p. 7. Ms. Tieken testified the Commission previously authorized a fixed charge for the CSIA mechanism from residential customers in the 44429/44430 Order. *Id.*, p. 6. Ms. Tieken cited the 44429/44430 Order, which found that "residential customers are a homogenous group with similar service requirements and for which the fixed costs associated with the receipt of gas service do not vary with the level of use. Thus, even without a cost-of-service study, [the Commission found] that a fixed charge rate design for this type of infrastructure investment program adheres to accepted cost causation principles." *Id.*, pp. 6-7 (*citing* 44429/44430 Order, p. 23).

Ms. Tieken further testified CEI South's proposed rate design is not inconsistent with the Settlement Agreement in its most recent rate case (Cause No. 45447), because the Settlement Agreement and Order in that Cause did not have an agreed upon rate design for the future CSIA mechanism. *Id.*, pp. 7-8. Ms. Tieken also testified she disagreed with Ms. Poole's contention that CEI South's customers will not be harmed by charging a volumetric rate. *Id.*, p. 9. She testified a volumetric charge would increase residential customers' bills, especially in the winter months, compared to a fixed charge. *Id.* She also testified CEI South's residential customers would lose the benefit of gradual movement towards a straight fixed variable rate design. *Id.*

Mr. Hoover responded to Mr. Krieger's recommendations regarding Petitioner's cost estimates. Mr. Hoover testified he disagreed with Mr. Krieger's recommendation that contingencies be removed from all work order estimates. Petitioner's Exh. 2-R ("Hoover Rebuttal"), p. 6. He testified contingencies are a valid component of project and work order estimates used throughout the utility industry—and in fact all industries—to account for uncertainties which are likely to occur. *Id.* Mr. Hoover testified he does not believe a cost estimate without contingency would be considered a "best estimate" as required by the TDSIC Statute. *Id.*, p. 7. He further testified the Commission has previously found that "the exclusion of contingency in the cost estimate would be unreasonable and would not establish the best cost estimate as required by the TDSIC Statute." *Id.*, p. 7 (*citing Northern Indiana Pub. Service Co.*, Cause No. 45330 (IURC 7/22/20)). Mr. Hoover responded to each of Mr. Krieger's arguments regarding contingency and explained why inclusion of contingency in the cost estimates is appropriate and is consistent with other Commission cases and industry practice. *Id.*, pp. 7-11.

Mr. Hoover also testified he disagreed with Mr. Krieger's recommendation to disallow escalation and overhead costs on contingencies. *Id.*, p. 13. Mr. Hoover testified it is industry practice to apply escalation to cost estimates with contingency built in and the AACE supports escalation of contingency. *Id.*, p. 14. Mr. Hoover acknowledged the Commission disallowed escalation of contingency in Cause No. 45183 because the Commission determined that escalation in that Cause was unwarranted in light of the Compliance Statute's "25% statutory allowance to address unanticipated costs." *Id.*, pp. 14-15 (*citing Cause No. 45183 Order*, p. 20). Mr. Hoover testified he interpreted the Commission's Order to mean that because the Compliance Statute already includes a 25% allowance for cost exceedances, the utility's practice in Cause No. 45183 of escalating its cost estimates with contingency built in was not necessary or appropriate. *Id.*, p. 15.

Mr. Hoover noted the utility's request in Cause No. 45183 included only Compliance Projects and the TDSIC Statute does not include a similar 25% allowance. *Id.* Instead, the TDSIC Statute requires "specific justification by the public utility and specific approval by the Commission" for any actual capital expenditures and TDSIC costs that exceed the approved capital expenditures and TDSIC costs. Ind. Code § 8-1-39-9(g). He testified applying the Commission's justification in Cause No. 45183 to this Cause would produce an illogical result because, by the Commission's reasoning in Cause No. 45183, it appears escalating contingency for TDSIC project cost estimates would be appropriate but doing so for Compliance projects would not be. *Id.*, p. 16.

Mr. Hoover testified this would produce an illogical result because cost estimating is performed the same way no matter what statutory scheme the utility is invoking for recovery. *Id.* CEI South uses the same cost estimating process for all capital projects across all Commission proceedings. *Id.* He testified that to adopt the Commission's logic in Cause No. 45183 would lead to utilities preparing capital cost estimates differently depending on the type of Commission proceeding. *Id.* As applied to this case, Mr. Hoover testified the Commission's logic would require CEI South to present two sets of cost estimates—one set for if the project is approved as a Compliance Project under IC ch 8-1-8.4 and another set if the project is approved as a TDSIC

Project under IC ch. 8-1-39. *Id.* He testified this cannot be the Commission’s intention and would be contrary to industry practice. *Id.*

Mr. Hoover testified why it is appropriate to escalate contingency costs for projects to be constructed in future years. *Id.*, pp. 17-19. He reiterated why both contingency and escalation are appropriate components of complete and accurate cost estimates. *Id.* Mr. Hoover testified that based on his experience and familiarity with industry practice, exclusion of escalation of contingency would produce an unrealistically low overall cost of CEI South’s Compliance Projects and TDSIC Plan. *Id.* He testified that both the Commission and CEI South’s stakeholders need a realistic cost in order to evaluate the overall appropriateness of CEI South’s projects and plan. *Id.* Mr. Hoover testified this is why CEI South presented its cost estimates with contingency escalated in its case-in-chief, and he continues to maintain that this is the appropriate way to prepare cost estimates for all capital projects. *Id.*

5. Commission Discussion and Findings.

A. Statutory Requirements. CEI South has proposed relief in this proceeding pursuant to both the Compliance Statute and TDSIC Statute. The Compliance Statute requires an energy utility seeking to recover costs incurred to comply with federally mandated requirements to obtain a CPCN. Ind. Code § 8-1-8.4-6.

A CPCN may be issued only if the Commission: (1) finds that the public convenience and necessity will be served by the proposed compliance project, (2) approves the projected federally mandated costs associated with the proposed compliance project, and (3) makes a finding on each of the factors set forth in Ind. Code § 8-1-8.4-6(b). Ind. Code § 8-1-8.4-7(b). A compliance project is defined as one undertaken by an energy utility related to the direct or indirect compliance by the energy utility with one (1) or more federally mandated requirements. Ind. Code § 8-1-8.4-2(a). Federally mandated requirements include “[s]tandards or regulations concerning the integrity, safety, or reliable operation of: (A) transmission; or (B) distribution; pipeline facilities.” Ind. Code § 8-1-8.4-5(5).

If the Commission approves a proposed compliance project and projected federally mandated costs associated with the project and issues a CPCN, then:

- (1) Eighty percent (80%) of the approved federally mandated costs shall be recovered by the energy utility through a periodic retail rate adjustment mechanism that allows the timely recovery of the approved federally mandated costs. The commission shall adjust the energy utility’s authorized net operating income to reflect any approved earnings for purposes of IC 8-1-2-42(d)(3) and IC 8-1-2-42(g)(3).
- (2) Twenty percent (20%) of the approved federally mandated costs, including depreciation, allowance for funds used during construction, and post in service carrying costs, based on the overall cost of capital most recently approved by the

commission, shall be deferred and recovered by the energy utility as part of the next general rate case filed by the energy utility with the commission.

(3) Actual costs that exceed the projected federally mandated costs of the approved compliance project by more than twenty-five percent (25%) shall require specific justification by the energy utility and specific approval by the commission before being authorized in the next general rate case filed by the energy utility with the commission.

Ind. Code § 8-1-8.4-7(c).

The TDSIC Statute permits a public utility to petition the Commission for approval of the public utility's plan for eligible transmission, distribution, and storage improvements, which may include approval of a TED project. The Commission's order must include the following:

- (1) A finding of the best estimate of the cost of the eligible improvements included in the plan.
- (2) A determination whether public convenience and necessity require or will require the eligible improvements included in the plan.
- (3) A determination whether the estimated costs of the eligible improvements included in the plan are justified by incremental benefits attributable to the plan.

If the Commission determines that the public utility's TDSIC plan is reasonable, the commission shall approve the plan and authorize TDSIC treatment for the eligible transmission, distribution, and storage improvements included in the plan.

Ind. Code § 8-1-39-10(b).

"Eligible transmission, distribution, and storage system improvements" means new or replacement electric or gas transmission, distribution, or storage utility projects that:

- (1) a public utility undertakes for purposes of safety, reliability, system modernization, or economic development, including the extension of gas service to rural areas;
- (2) were not included in the public utility's rate base in its most recent general rate case; and
- (3) were [among other things] described in the public utility's TDSIC plan and approved by the commission under [Ind. Code § 8-1-39-10] and authorized for TDSIC treatment . . .

Ind. Code § 8-1-39-2(a).

The term “eligible transmission, distribution, and storage system improvements” includes the following:

- (1) projects that do not include specific locations or an exact number of inspections, repairs, or replacements, including inspection-based projects such as pole or pipe inspection projects, and pole or pipe replacement projects; and
- (2) projects involving advanced technology investments to support the modernization of a transmission, distribution, or storage system, such as advanced metering infrastructure, information technology systems, or distributed energy resource management systems.

Ind. Code § 8-1-39-2(b).

Ind. Code § 8-1-39-7.8 requires that a TDSIC plan cover a period of at least five years and not more than seven years.

Ind. Code § 8-1-39-10(d) allows a utility to “terminate an existing TDSIC plan before the end of the original plan period by providing the commission a notice of termination at least sixty (60) days before the date on which the plan will terminate.”

Like its proposal in Cause No. 44429, in this proceeding, CEI South is proposing a comprehensive investment program that consists of two components: (1) projects to comply with federal pipeline safety mandates and (2) transmission and distribution projects that facilitate the reliable and safe provision of gas service through system modernization, as well as service to rural areas. This approach is consistent with Petitioner’s approach in Cause No. 44429. Because Petitioner once again seeks relief under both the Compliance Statute and the TDSIC Statute, the Commission reviews the projects separately under the specific requirements of each statute.

B. Petitioner’s Federally Mandated Requirements. The Federal Department of Transportation (“DOT”) and PHMSA have enacted a series of regulations designed to promote the safe delivery of natural gas to customers and the safe storage of natural gas in underground facilities. In response to these regulations, CEI South developed Compliance Programs and Compliance Projects to allow compliance with the federally mandated pipeline safety regulations. CEI South witness Mr. Hoover described Petitioner’s four Compliance Projects, TMOD, DMOD, BSCI, and SMOD, and the work orders that make up each. Hoover Direct, pp. 12-13. CEI South witness Mr. Gilles described Petitioner’s process and modeling for identifying and prioritizing the individual projects to ensure compliance with the federally mandated requirements and to create a safer and more reliable system. Gilles Direct, pp. 16-17. Mr. Gilles also described the process used to evaluate facility data and to support the process of identifying the necessary Compliance Projects. *Id.*

1. Compliance Projects. As indicated above, the Compliance Statute defines a compliance project as a project that is: (1) undertaken by an energy utility and (2) related to the direct or indirect compliance by the energy utility with one (1) or more federally mandated requirements. The term includes an addition or an integrity, enhancement, or a replacement project; undertaken by an energy utility to comply with a federally mandated requirement

described in IC 8-1-8.4-5(5). Ind. Code § 8-1-8.4-2. CEI South is an “energy utility” as that term is defined in Ind. Code § 8-1-2.5-2. Therefore, we must determine whether CEI South’s proposed Compliance Projects are necessary to directly or indirectly comply with a federally mandated requirement.

Mr. Gilles testified to federal DOT regulations that establish pipeline safety requirements for pipeline operators that transport natural gas and other fuels. Gilles Direct, pp. 7-10. He explained that these regulations establish design, construction, testing, inspection, operation, and maintenance requirements that apply to the various pipeline system components. *Id.*, p. 7. These regulations, and additional regulations imposed by PHMSA, require Petitioner to develop Compliance Programs to allow the Company to comply with federally mandated pipeline safety regulations including the TIMP, DIMP, SIMP, SMS, and other assorted pipeline safety rules. *Id.*, p. 10. Mr. Gilles testified that these regulations are all standards or regulations concerning the integrity, safety, or reliable operation of transmission, storage, or distribution facilities. *Id.*

Mr. Gilles explained how the Compliance Programs resulted in the four Compliance Projects, TMOD, DMOD, BSCI, and SMOD, and the associated work orders proposed in this Cause. *Id.*, pp. 15-24. Mr. Gilles testified that completing the four Compliance Projects, as well as the work orders underlying these Compliance Projects, all relate to the Company’s compliance with applicable federally mandated pipeline safety regulations. *Id.*, pp. 23-24. Mr. Gilles also described how each of the Compliance Projects will allow the Company to achieve compliance. *Id.*, 24. OUCC witness Mr. Krieger agreed and testified he found Petitioner’s proposed Compliance Projects to be compliant with PHMSA requirements. Krieger Direct, p. 6.

The Compliance Statute specifically defines a federally mandated requirement as including projects required to comply with standards or regulations concerning the integrity, safety, or reliable operation of transmission or distribution pipeline facilities. Ind. Code § 8-18.4-5(5). The Compliance Projects are driven by the need to comply with regulations concerning the integrity, safety, and reliability of Petitioner’s transmission and distribution pipeline facilities. Petitioner has provided a sufficient description of the federally mandated requirements and no party disputed the proposed projects are federally mandated. We therefore find that the Compliance Projects constitute “compliance projects” within the meaning of the Compliance Statute.

2. Public Convenience and Necessity. CEI South’s witnesses Hoover and Gilles explained the benefits to customers and the public in general from the Compliance Projects. *See, e.g.*, Hoover Direct, pp. 59-60. Mr. Hoover explained replacement of certain assets—bare steel, cast-iron mains and services, legacy plastic mains and services, legacy steel mains, and ineffectively coated steel service lines—reduces leaks in CEI South’s system, reduces the occurrence of future leaks and leak repair work, and will reduce interruptions, inconveniences, and disturbances to customers. *Id.*, pp. 59-60. He further testified the remediation of issues such as exposures, shallow pipe, and the replacement of obsolete equipment reduces risk and enhances the safety and reliability of the pipeline system. *Id.*, p. 59. He testified eliminating low-pressure systems allows for enhanced system reliability and the use of modern materials to enhance pipeline safety. *Id.* Mr. Hoover also testified enhancements to CEI South’s transmission system, by making pipelines capable of assessment by in-line inspection technology, pressure testing, or equipping valves with remote controls allows CEI South to ensure its transmission pipelines continue to

operate safely and reliably. *Id.* Enhancements to gas storage field wells and gas processing equipment improve the safety and reliability of this important gas supply management asset. *Id.*

Based on the evidence presented, we find that the Compliance Projects promote the public convenience and necessity.

3. Reasonableness of Compliance Project Costs. Petitioner presented detailed cost estimates to support the projected costs of the Compliance Projects. CEI South witness Hoover described the robust investment planning and cost estimating process CEI South used to develop the cost estimates presented in this Cause. Hoover Direct, pp. 39-55. Mr. Hoover testified the cost estimates presented in this Cause are in alignment with Petitioner’s “detailed engineering” practices and are detailed and estimated consistent with the recommended practices of AACE International. Hoover Direct, pp. 47-48.

Mr. Krieger did not dispute the process Petitioner used to develop cost estimates in this Cause or the underlying reasonableness of Petitioner’s Compliance Project costs generally. However, Mr. Krieger did take issue with how Petitioner factored contingency and escalation into its cost estimates. Mr. Krieger recommended CEI South remove project contingencies contained in the Compliance Projects and TDSIC Projects. Krieger Direct, p. 2. Alternatively, if the Commission allows some contingency, Mr. Krieger recommended CEI South should apply its proposed escalation factor to project estimates before contingency is applied. *Id.*

The issues Mr. Krieger raised with respect to contingency and escalation apply to both the Compliance Project and TDSIC Project costs included in Petitioner’s CSIA. Thus, we will discuss the issue of contingency and escalation in the context of both components in the “best estimate” discussion of the TDSIC section of this Order. However, and as discussed later in this section, ~~because we find it i~~was inappropriate for CEI South to include contingency in its cost estimates and to apply escalation and overhead to the contingency, we find that CEI South’s \$230.38 million Compliance Project cost estimates as set forth on Table SAH-1 ~~should be revised as set forth below are reasonable and should be approved.~~

4. Section 6(b) Factors. Ind. Code § 8-1-8.4-7(b)(3) requires the Commission to make findings on each of the factors set forth in Ind. Code § 8-1-8.4-6(b), which include: (1) a description of the federally mandated requirements, (2) a description of the projected federally mandated costs, (3) a description of how the proposed compliance project allows the energy utility to comply with the federally mandated requirements, (4) alternative plans that demonstrate the proposed project is reasonable and necessary, (5) information as to whether the proposed project will extend the utility’s useful life and the value, and (6) any other factors the Commission considers relevant. As more fully explained above, with respect to the first two factors, we find that CEI South has adequately described the federally mandated requirements and the projected costs.

With respect to the third factor, no party disputed that the Compliance Projects are necessary to comply with federal mandates. Petitioner’s witness Gilles testified that completing the Compliance Projects – the TMOD, SMOD, DMOD, and BSCI Projects – and the work orders underlying those projects all relate to the Company’s compliance with applicable federal mandated

pipeline safety regulations. Gilles Direct, pp. 23-24. Mr. Gilles also described, in detail, how the Compliance Projects will allow the Company to achieve compliance. *Id.*, p. 24. Thus, we agree the Compliance Projects will enable Petitioner to comply with federal DOT and PHMSA requirements.

As to the fourth factor, Mr. Gilles testified the Company must complete the Compliance Projects to satisfy federally mandated pipeline safety regulations with the purpose of ensuring the safe and reliable operation of transmission, storage, and distribution facilities. *Id.* He testified there is no option to the TMOD, SMOD, DMOD, and BSCI Projects and the Company must implement each of these projects to comply with TIMP, DIMP, and SIMP. *Id.* Mr. Gilles explained that CEI South used a risk modeling approach to compliance that examined ~~whenever~~ possible assessment alternatives and alternative preventive and mitigating measures. *Id.* Mr. Gilles further explained there are ultimately no feasible alternatives to the Compliance Projects because certain of the federal requirements are prescriptive in nature, which does not allow for alternative methods of compliance. *Id.* Thus, there are no feasible alternatives to the Compliance Projects because of the prescriptive nature of the federal requirements. *Id.* Mr. Gilles explained that alternatives to risk-based requirements would be either outdated, higher risk, or would not achieve compliance. *Id.*

Finally, Mr. Gilles testified the Compliance Projects will extend the life of existing assets by replacement or improvement. *Id.*, pp. 24-25. He testified, for example, a TMOD work order that replaces a segment of pipeline found to contain a defect during an in-line inspection with a new segment of pipe, extends the life of both the pipeline and the greater pipeline system. *Id.* Thus, it is clear that the useful lives of some of Petitioner's existing natural gas transmission and distribution pipeline systems will be extended. Such extension will further enhance Petitioner's ability to provide safe and reliable gas service in compliance with federal regulations.

5. Issuance of CPCN. Based on the foregoing findings, we grant Petitioner a CPCN for the Compliance Projects. The Compliance Projects will serve the public convenience and necessity of Petitioner's customers, as well as others located near Petitioner's infrastructure, and are necessary to comply with federal mandates. As a result, the Compliance Projects qualify for cost recovery under the Compliance Statute. The amount of cost recovery Petitioner is authorized to recover will be discussed in the TDSIC portion of this Order as part of our discussion on the appropriateness of inclusion of contingency and escalation.

C. Petitioner's TDSIC Plan.

1. Petitioner's TDSIC Plan. Petitioner requests approval of its TDSIC Plan pursuant to Ind. Code § 8-1-39-10. CEI South's TDSIC Plan includes an estimated \$49.45 million of capital improvement projects over calendar years 2022 through 2026. Hoover Direct, p. 22. Petitioner's witness Hoover testified that the TDSIC Plan consists of work orders: 1) designed to maintain or enhance the safety and reliability of the natural gas infrastructure; 2) required to relocate and ensure the safety of gas infrastructure due to state or municipal road, drainage, or other public work; 3) to support the extension of natural gas energy to residential areas currently without access to natural gas; and 4) to support targeted economic development through the construction of natural gas transmission or distribution infrastructure as provided under Ind. Code ch. 8-1-39. Hoover Direct, pp. 21-22. Mr. Hoover explained that CEI South manages actual recurring capital investments during each year, relative to the budget of projected recurring

investments, with the understanding that investment priorities emerge during the year that may not be specifically identified in the TDSIC Plan. *Id.* at 56.

No party took issue with Petitioner's proposed TDSIC Plan projects. OUCC witness Krieger reviewed Petitioner's proposed TDSIC Plan and underlying projects to confirm the Plan and projects met the requirements of the TDSIC Statute. Krieger Direct, pp. 6-7. Mr. Krieger testified his analysis indicates Petitioner has provided justification for its TDSIC Projects, including those specifically designed for capacity additions. Krieger Direct, p. 8. He testified Petitioner has also provided detailed work order level estimates, but took issue with the contingency, escalation, and overhead included in the project costs. *Id.*, pp. 8-9. We will discuss these issues at the end of this section.

In this Cause, CEI South is seeking recovery of both Compliance Projects under Ind. Code ch. 8-1-8.4 and its TDSIC Plan under Ind. Code ch. 8-1-39. Because we have specifically found that the Compliance Projects are accurately categorized as necessary to allow compliance with federal requirements, we fully expect those projects to remain Compliance Projects and absent a change in federal requirements, not shifted to the TDSIC Plan. Similarly, we expect TDSIC Projects to remain in the TDSIC Plan and not shifted to the list of Compliance Projects.

Based on the evidence presented in this proceeding, and as discussed further below, we find that Petitioner has presented a plan that, when regulated as outlined in this Order, meets the requirements of Ind. Code § 8-1-39-10.

2. Best Estimate of the Cost of Eligible Improvements. (NOTE – OUCC HAS REPLACED CENTERPOINT'S PROPOSED SECTION 5-C-2 IN ITS ENTIRETY.) Ind. Code § 8-1-39-10(b)(1) requires that an order approving a TDSIC plan must include a finding that the cost of the TDSIC plan represents "the best estimate of the cost" of the proposed eligible improvements contained therein.

Like the cost estimates for the proposed Compliance Projects, Petitioner's witness Hoover described the robust capital investment planning and cost estimating process Petitioner used to develop the cost estimates included in the TDSIC Plan. Hoover Direct, pp. 39-55. Mr. Hoover testified that projects planned to be completed in the first year of the Plan were designed to a AACE Class 2 cost estimate criteria and the remaining projects were designed to AACE Class 4 estimate criteria. *Id.*, p. 48. Mr. Hoover testified the estimates resulting from the detailed engineering process are considered sufficiently accurate and complete for purposes of providing the "best estimate" of costs for the TDSIC Plan. *Id.*, p. 47. Mr. Hoover testified CEI South also engaged external engineering firms to assist in the development of some of the cost estimates. *Id.*, pp. 51-52.

OUCC witness Krieger reviewed the detailed project cost estimates and the cost inputs relied upon by Petitioner for inclusion in the TDSIC Plan. Krieger Direct, pp. 6-7. Mr. Krieger acknowledged Petitioner provided detailed work order level estimates as part of its Plan, but, like the Compliance Projects, he took issue with the way Petitioner built contingency, overhead, and escalation amounts into the individual work orders. *Id.*, pp. 7, 9.

Petitioner's witness Hoover testified that Petitioner included contingency in the project cost estimates in order to provide complete and fully transparent estimates. Hoover Direct, p.53. He testified it is common estimating practice to include contingency and including contingency enhances confidence that the project final cost will be within the upper and lower limits of the estimate range. *Id.*, p. 54. Mr. Hoover also testified Petitioner applied a 2.4% escalation factor beginning in 2023. *Id.*, p. 52.

OUCS witness Krieger recommended all contingency dollars be removed from the project estimates. Krieger Direct, p. 17 . He further recommended that if the Commission allows some contingency, Petitioner's proposed overhead and escalation percentages be applied to Petitioner's project estimate before any approved contingency. *Id.*

Mr. Krieger provided several arguments for why he believes contingencies should be removed from the project estimates. Mr. Hoover identified in his rebuttal testimony that this Commission has previously held that "the exclusion of contingency in the cost estimate would be unreasonable and would not establish the best cost estimate as required by the TDSIC Statute." *See, e.g., Northern Indiana Public Service Co., Cause No. 45330 (IURC 7/22/20)*. However, more recently, the Commission approved Ohio Valley Gas Corporation's TDSIC Plan where contingencies were excluded from the best estimate. (*Ohio Valley Gas Corp., Cause No. 45400, Dec. 16, 2020, page 8*).

Contingency is, outside of the TDSIC and Compliance statutes, beneficial for both contractors and customers. Contingency protects contractors against "unknown unknowns" that could drive project costs well above agreed-upon fixed cost caps, which in turn could significantly erode profit, or even turn the project into an economic loss. Contingency also helps mitigate the number of lawsuits from unhappy customers. Contingency reminds customers, up front, that project costs could exceed estimates if unexpected events occur. When capped at a percentage of project costs, contingency gives customers a better sense of the upper end of their potential cost exposure. None of these situations occur within the TDSIC and Compliance universe. Therefore, they cannot justify the inclusion of contingency in Compliance or TDSIC cost estimates in proceedings before this Commission.

The TDSIC statute is silent as to whether contingencies should be included in a best estimate. However, Ind. Code § 8-1-39-9(g) states: "Actual capital expenditures and TDSIC costs that exceed the approved capital expenditures and TDSIC costs require specific justification by the public utility and specific approval by the commission before being authorized for recovery in customer rates." This language removes the need to include specific contingency amounts in estimates. This language makes no exception and contains no qualifiers regarding the types of costs or the cause of the cost overrun. If a utility incurs *any* actual costs that exceed estimates, and the Commission determines those costs to be reasonable and specifically justified, the utility is entitled to recover them. If the Commission does not find requested cost overruns reasonable, the utility may not recover those costs, just as they would not be able to recover any other unreasonable cost in any other proceeding before the Commission. Ind. Code § 8-1-39-9(g) renders specific contingency amounts unnecessary without adding risk that the utility will not recover reasonable actual costs.

Removing contingency also brings greater transparency to the Commission, the parties and ratepayers. When cost overruns occur due to extraordinary events, it is only proper that the utility explain these circumstances fully. Embedding contingency within approved cost estimates allows each project within a Plan to incur up to 10% (and in some instances, even more) in additional costs. The project appears to be “on budget” and there is little-to-no risk of review of explanation of the specific “unknown unknowns” that befell the project, requiring contingency dollars be spent. The number of individual elements within a TDSIC Plan is enormous. Parties attempting a detailed review of each and every cost component, and producing testimony describing that review, are limited to 60 days by the TDSIC statute. The OUCC, for example, routinely notes in testimony that its cost reviews are limited to projects that exceed approved estimates by the greater of \$100,000 or 20%. Over the prior seven-plus years of TDISC Plans from both natural gas and electric utilities around the state, tens, and likely hundreds of millions of contingency dollars have been added to project costs. Since the passage of the TDISC statute, we do not recall any proceedings in which TDISC project contingency expenditures were brought to our attention for projects that were less than \$100,000 or 20% over budget. There simply has not been a meaningful review of contingency for the vast majority of TDSIC project costs recovered through the statute. It is impossible to calculate how much unjustified contingency has been collected from ratepayers through the TDSIC tracker.

CEI North is not precluded from seeking CSIA cost recovery for project costs that exceed the original best estimate. CEI North should provide best estimates without contingencies. If project costs exceed the initial best estimate, then CEI North should provide specific justification as to why the cost increase is reasonable. This requirement comports with the language of Ind. Code § 8-1-39-9(g) and allows all parties and the Commission the opportunity to review the supporting evidence before the Commission makes a determination whether the increased costs should be recovered in customer rates.

As noted by Mr. Krieger, we have previously found escalation on contingency was inappropriate in NIPSCO’s Cause No. 45183 related to federally mandated projects, finding the 25% allowance for cost overruns permitted under Ind. Code § 8-1-8.4 provided appropriate protection for NIPSCO in the event of cost overruns. *Northern Indiana Public Service Co.*, Cause No. 45183, p. 19-20 (IURC 9/4/19). The same applies to this case related to the proposed federally mandated projects. We deny any escalation on contingency in this case.

CEI North argues it would be illogical and unreasonable for the Commission to apply two different contingency standards to Petitioner’s compliance and TDSIC projects. Hoover Rebuttal, pp. 15-16. However, Petitioner chose to combine its compliance and TDSIC projects into one cost recovery filing in this Cause as well as Cause No. 44430. Therefore, our decision regarding the use of contingency for best estimates will apply to CEI North’s compliance and TDSIC projects.

Based on the evidence presented, we find that Petitioner’s TDSIC Plan is consistent with the “best cost estimate” requirements. Because we have found it is appropriate to apply escalation

on contingency, we also find Petitioner's Compliance Project Costs estimates as presented are not reasonable and should not be approved.

Ultimately, because we find it is not appropriate for Petitioner to include contingency in its cost estimates and to apply escalation and overhead to contingency, we find Petitioner's cost estimate of \$49.45 million for its TDSIC Plan projects as presented on Table SAH-5 is not a "best estimate" of the eligible improvements included in the Plan and should not be approved. Within 30 days of this Order, CEI North shall file updated TDSIC and Compliance Plans with contingency dollars and escalation on contingency removed from project costs. The parties shall have 30 days to review such information and raise any objection with the Commission.

3. Public Convenience and Necessity. Ind. Code § 8-1-39-2 defines eligible transmission, distribution, and storage system improvements as projects undertaken for purposes of safety, reliability, system modernization, or economic development.

Petitioner's witness Hoover identified several aspects of the TDSIC Plan that would benefit the public. First, the projects will improve the integrity of the pipeline system, impacting safety and reliability. Hoover Direct, p. 59. Mr. Hoover testified the safety considerations for the system improvement projects are associated with the provision of adequate pressure and gas supply to ensure space heat, cooking, and the generation of electricity. *Id.*, p. 57. He further testified that deterioration of system pressures and capacity leads to reduced reliability and potentially the inability to serve new development resulting in economic consequences to the regions where these businesses cannot be supported. *Id.*, pp. 57-58. Second, customers will benefit through investments that will mitigate safety and reliability risks resulting from excavation damage during third-party construction activities. *Id.*, p.36.

Ind. Code § 8-1-2-4 requires Petitioner to provide reasonable and adequate service to their customers. In addition, Ind. Code § 8-1-2-87(d) requires that the public interest be served and that the public convenience and necessity require the provision of gas distribution service by Petitioners within their authorized service territory. Based on the evidence presented, we find that Petitioner has sufficiently supported that the investments described in its TDSIC Plan are reasonably necessary for CEI South to continue to provide reasonable and adequate retail service to the customers in its service territory. Therefore, we find that the public convenience and necessity requires or will require the eligible improvements included in the TDSIC Plan.

With regard to Petitioner's proposed rural extension projects, Ind. Code § 8-1-39-2 provides that eligible improvements include, among other things, projects that a public utility undertakes for purposes of economic development, including the extension of gas service to rural areas, and that are either: (1) designated in the public utility's TDSIC plan, or (2) approved as a TED under Ind. Code § 8-1-39-11. As described by Mr. Hoover, CEI South has not included any specific rural extension work orders in its Plan, but has included \$1.5 Million in the Plan for anticipated additional rural extension projects. *Id.*, pp. 37-38. Further, with respect to TED Projects, Mr. Hoover testified the Company has not identified any specific projects, but has

included an estimated \$1 Million in the current Plan for anticipated future projects. *Id.*, p. 38. Mr. Hoover testified if potential TED projects arise and are determined to be economically feasible, CEI South will present the project as part of its periodic update of the TDSIC Plan. *Id.*

The OUCC did not take issue with Petitioner's proposed rural extension or TED projects but testified Petitioner did not provide margin tests for these projects. Krieger Direct, p. 16. Mr. Krieger testified Petitioner will need to provide the OUCC with 20-year margin tests for rural extension projects or TED projects if these projects come to fruition. *Id.* Petitioner's witness Hoover agreed with Mr. Krieger's recommendation to provide margin tests for each individual rural extension or TED project in future proceedings. Hoover Rebuttal, p. 20.

4. Incremental Benefits Attributable to the TDSIC Plans. Ind. Code § 8-1-39-10(b)(3) requires the Commission to determine that the estimated cost of the eligible improvements included in the TDSIC Plan are justified by the incremental benefits attributable to the TDSIC Plan.

Petitioner's witness Hoover summarized the incremental benefits attributable to the Company's TDSIC Plan and explained how the estimated cost of the eligible improvements are justified by these benefits. Hoover Direct, pp. 56-58. Mr. Hoover testified the total estimated cost of the safety and reliability project is \$37 Million. *Id.*, pp. 56-57. He testified the two storage field compressor installations for system reliability account for approximately 39% of the system improvement estimated costs and are necessary to provide redundancy to existing decades old compression equipment. *Id.* He further testified the Vanderburgh Industrial Park to US41 pipeline project directly supports growth in the park and development along the US41 corridor north of Evansville and represents a significant portion of the TDSIC Plan system improvement estimate cost. He testified that in his judgement, the incremental benefits from these larger TDSIC Plan work orders alone justify the costs of the Plan. *Id.*

Mr. Hoover further testified that beyond these larger work orders, the TDSIC Plan provides multiple safety, reliability, and economic benefits to employees, customers, and the communities CEI South serves. *Id.*, p. 57. He explained these projects are identified and prioritized using an advanced hydraulic modeling application used to identify projects that are necessary to address current or projected reliability issues primarily reflected by system pressure or capacity limitations. *Id.*, pp. 25-26. Mr. Hoover testified that without these projects, there is a likelihood reliability will suffer and gas system outages resulting from inadequate supply or low pressure can directly impact critical human needs services—space heat, electric generation, etc.—or significantly impair commercial and industrial production and the economy. *Id.*, p. 30. Mr. Hoover also described the incremental benefits associated with the other types of projects included in Petitioner's TDSIC Plan, beyond the safety and reliability project. *Id.* pp. 57-58.

The OUCC agreed that the proposed projects included in Petitioner's TDSIC Plan provide incremental benefits to Petitioner's customers through enhanced safety and reliability. Krieger Direct, pp. 15-16. OUCC witness Krieger testified he considered if Petitioner's proposed improvement projects were for purposes of safety, reliability, or system modernization with established incremental benefits, and his analysis determined Petitioner's TDSIC Projects met the requirements of Ind. Code ch. 8-1-39. *Id.*, pp. 15-16.

Based on the evidence presented, we find that Petitioner has sufficiently demonstrated that the estimated costs of the TDSIC Plan's eligible improvements are justified by the incremental benefits attributable to the Plan. As noted earlier, the vast majority of Petitioner's TDSIC Plan investments are for safety and reliability projects. In determining the eligible improvements to be included in the TDSIC Plan, Petitioner identified and prioritized the projects using an advanced hydraulic modeling application used to identify projects that are necessary to address current or projected reliability issues primarily reflected by system pressure or capacity limitations. –The evidence shows Petitioner's TDSIC Plan will enhance customer and employee safety, avoid outages, preserve and improve operational integrity, and support economic development.

5. Reasonableness of TDSIC Plans. Based upon our review of the evidence, the Commission finds Petitioner's TDSIC Plan to be reasonable and should be approved as set forth herein. The OUCC recommended approval of the Plan, subject to certain recommendations for the information to be included in Petitioner's Update process as discussed below. Krieger Direct, p. 18. Petitioner's TDSIC Plan appropriately and reasonably addresses Petitioner's aging infrastructure through projects intended to enhance, improve, and replace system assets for the provision of safe and reliable natural gas service, as well as the cost-effective extension of service to rural areas. These are activities from which customers are reasonably expected to benefit.

D. Updates to the TDSIC Plan. Ind. Code § 8-1-39-9(a) requires that a public utility update its TDSIC plan as a component of the TDSIC periodic automatic adjustment filings. Aside from inclusion for approval of any TED projects, the TDSIC Statute is silent as to what should be included in the update. The same is true with regard to the adjustment mechanism under the Compliance Statute.

In accordance with Ms. Tieken's testimony, and consistent with Petitioner's previous CSIA mechanism, the Commission finds it reasonable that Petitioner makes its CSIA filings every six months, specifically on October 1 and April 1 each year. Tieken Direct, p. 9. The October filing shall provide project detail similar to Year 1 of the original TDSIC Plan for the next upcoming year of the 5-year Plan. Further, OUCC witness Krieger made the following recommendations for the update process:

1. Petitioner should supply reasons substantiating new estimates if a project's new estimate exceeds an approved best estimate by greater than 20% or \$100,000.
2. Petitioner should supply reasons substantiating actual costs incurred if a project's actual cost exceeds the approved best estimate by greater than 20% or \$100,000.
3. Petitioner should supply a margin test for each individual rural extension project and Targeted Economic Development project.

Krieger Direct, p. 18.

CEI South witness Hoover testified on rebuttal that CEI South accepts these recommendations. Hoover Rebuttal, p. 20. Thus, we find Petitioner's update process should include this information. We also find it reasonable that in updating the TDSIC Plan, Petitioner shall continue to refresh its prioritization analyses as new information about the system becomes available. As the factors driving the analyses change, the risk profile of Petitioner's system will also change which will require adjustments to equipment and project ranking.

With respect to stakeholder engagement and the information to be provided for each tracker filing, we find Petitioner should continue using the process and providing the information required in the semi-annual tracker filings in the Company's 44429 CSIA. This process has worked well in CEI South's previous TDSIC filings, and we find that this process will reasonably balance the needs of Petitioner for investment recovery confidence and customers for prudent investment assurance.

E. CSIA Mechanism. Consistent with the terms of Petitioner's previous CSIA Order, Petitioner has proposed adoption of a CSIA Mechanism to recover 80% of the costs associated with the Compliance Projects and TDSIC Plans. The OUCC generally recommended approval of CEI South's proposed CSIA mechanism, but recommended adjustments to Petitioner's capital structure and, with respect to rate design, recommended residential customers be charged a volumetric rate similar to other rate classes. Poole Direct, pp. 17-18. We will discuss the OUCC's specific recommendations in the following sections.

Ultimately, and consistent with our findings below, we authorize Petitioner to continue using the CSIA mechanism established in Cause Nos. 44429/44430 for recovery of 80% of the Compliance and TDSIC Project costs. Petitioner shall file with the Commission's Natural Gas Division a revised tariff sheet consistent with the format set forth on Attachment KJT-1, as well as with our findings below.

1. Customer Class Revenue Allocation. Pursuant to the TDSIC Statute, Petitioner proposes to use the revenue allocation percentages approved by the Commission in its most recent base rate case. Tieken Direct, p. 13. Petitioner's witness Tieken testified the Settling Parties in Petitioner's most recent base rate case (Cause No. 45447) agreed that allocators for the TDSIC Component of the CSIA mechanism will be based on total revenues and allocators for the Compliance Component will be based on the non-gas revenues from CEI South's most recently filed base rate case in Cause No. 45447. *Id.*, p. 13. Ms. Tieken further testified that the stipulated allocators for each CSIA Component will be used for all TDSIC or Compliance Projects included in CEI South's next CSIA, as well as TDSIC and Compliance Projects added after the CSIA has been approved. *Id.*

No party took issue with Petitioner's proposed allocation percentages. OUCC witness Poole testified that Petitioner's proposed customer class cost allocation is in compliance with the TDSIC and Compliance Statutes, and also the Commission's Order in Cause No. 45447. Poole Direct, p. 10. Based upon our review of the evidence, we find that the allocation methodology proposed by the Petitioner is a reasonable approach consistent with the TDSIC statute and should be approved for the CSIA.

2. Rate Design. (NOTE – OUCC HAS REPLACED CENTERPOINT’S PROPOSED SECTION 5-E-2 IN ITS ENTIRETY.) Petitioner is proposing the same rate design previously approved in Cause Nos. 44429/44430, including, that CSIA costs be recovered from residential customers via a fixed monthly charge and from all other customers using a volumetric charge. Tiekens Direct, p. 17-18. The OUCC disagreed with Petitioner’s proposal to collect CSIA costs from residential customers via a fixed monthly charge, and OUCC witness Poole recommended Petitioner collect the CSIA charge from residential customers via a volumetric rate instead. Poole Direct, p. 17. Ms. Poole testified Petitioner’s proposal is inconsistent with the Settlement Agreement in Petitioner’s most recent base rate case and treats residential customers differently than other customer classes. *Id.*, e, p. 12. She also testified residential customers who use more gas or have more demand on the system should bear more costs of the pipes, valves, and service lines. *Id.*, p. 13. Ms. Poole further testified it is not equitable to single out one rate class for a different recovery method than that applied to the other classes, and thus she recommended residential customers be charged a volumetric rate similar to the other rate classes. *Id.* at 13-14.

On rebuttal, Ms. Tiekens cited language from the Commission’s 44429/44430 Order to support that applying a fixed charge to residential customers is consistent with the move towards straight fixed variable rate design. Tiekens Rebuttal, pp. 6-7. Ms. Tiekens also responded to Ms. Poole’s suggestion that Petitioner’s proposal is inconsistent with the Settlement Agreement and Order in Cause No. 45447. *Id.*, pp. 7-8. Ms. Tiekens testified the OUCC made similar arguments in Cause Nos. 44429/44430 and the Commission did not find in those Causes that Petitioner’s proposal violates or was inconsistent with the previous settlement agreements. *Id.* Further, Ms. Tiekens testified a volumetric charge would increase residential customers’ bills, especially in winter months, and CEI South’s residential customers would lose the benefit of gradual movement towards straight fixed variable rate design. *Id.*, 9.

The TDSIC statute is silent as to rate design, as is the Compliance statute. The TDSIC statute specifies that the customer class revenue allocation factor approved in the last base rate case be used for TDSIC cost recovery. Ind. Code § 8-1-39-9(a)(1). Therefore, it is the OUCC’s position the rate design agreed to in the last base rate case also be used for CSIA cost recovery. Petitioner correctly argues the Commission allowed CEI North to recover its CSIA charges via a fixed charge in Cause Nos. 44429/44430. (Order, Aug. 27, 2014.)

The Commission has issued numerous orders for TDSIC Plans and tracker filings in the last eight years. The Commission approved volumetric TDSIC tracking factors for NIPSCO’s first TDSIC Plan. (*NIPSCO*, Cause No. 44403 TDSIC 1, January 28, 2015, page 28.) The Commission continued to approve volumetric tracking factors for NIPSCO in Cause Nos. 44403 TDSIC 1 through TDSIC 11. The Commission approved NIPSCO’s most recent TDSIC Plan in 2020. NIPSCO will continue to recover its TDSIC costs volumetrically.

Mr. Racher explained that in each Plan Update filing, NIPSCO allocates the transmission, distribution, and storage-system revenue requirements, consistent with the revenue allocation approved in the 44988 Order and *recovers through a volumetric factor* calculated in each Plan Update filing.

(*NIPSCO*, Cause No. 45330, July 22, 2020, page 9, *emphasis added.*)

Other TDSIC Plan and tracker filing orders also provided for recovery of TDSIC costs through volumetric rates. The Commission approved recovery of TDSIC charges for Midwest Natural Gas Corporation in 2019: “Mr. Osmon testified that by defining the tracker per therm, Midwest is requesting recovery *based upon volumetric throughput and not a fixed monthly charge.*” (*Midwest Natural Gas Corp.* Cause No. 44942 TDSIC 1, May 15, 2019, page 11, *emphasis added.*)

The Commission also addressed the TDSIC rate design issue in Ohio Valley Gas Corporation’s recent TDSIC tracker. (*Ohio Valley Gas Corp.* Cause No. 45400 TDSIC 1, Dec. 28, 2021.) The Commission approved a per therm volumetric TDSIC recovery charge for all of Ohio Valley’s customer classes. (*Id.*, Sheet No. 9, Settlement, Appendix F, TDSIC Rate Factor.)

Eight years ago, the Commission approved CEI North’s (Vectren’s) proposal to recover its CSIA costs through a fixed charge to residential customers. Starting with NIPSCO’s Cause No. 44403 TDSIC 1 Order in January 2015, the Commission has approved volumetric TDSIC tracker filings for all rate classes, including the residential class.

The Commission understands CEI North’s request to recover its CSIA costs through a fixed charge moves more toward straight fixed variable rate design. More costs recovered through a fixed charge brings more stability to CEI North’s monthly cash flow. At the same time, more costs recovered in a fixed charge, means less costs recovered volumetrically, where customers have some control over their natural gas consumption, and therefore, energy efficiency.

The Commission does not see any valid reason why CEI North’s residential customers should pay fixed CSIA charges while CEI North’s other customers are paying volumetric TDSIC rates. The Commission also does not see any valid reason why CEI North’s residential customers should pay fixed CSIA charges while NIPSCO, Midwest Natural Gas, and Ohio Valley Gas residential customers are paying volumetric TDSIC rates. Therefore, the Commission finds that CEI North’s CSIA costs, for all customer classes, shall be recovered volumetrically.

3. Petitioner’s TDSIC Plan. Ind. Code § 8-1-39-9(a)(2) requires a petition seeking recovery of TDSIC costs to include a utility’s TDSIC Plan. As part of its case-in-chief, Petitioner set forth its proposed TDSIC Plan investments in Petitioner’s Exhibit No. 2, Attachment SAH-3. Therefore, we find Petitioner satisfied the requirement set forth in Ind. Code § 8-1-39(a)(2). We note that in each semi-annual CSIA filing, Petitioner will update its TDSIC Plan pursuant to Ind. Code § 8-1-39-9(a) and in accordance with the specific parameters set forth herein.

4. Adjustment to Net Operating Income. Petitioner requests authority to increase the net operating income approved in Petitioner’s last base rate cases to include the earnings associated with the CSIA filings for purposes of the Ind. Code § 8-1-2-42(g)(3) earnings test.

Ind. Code §§ 8-1-39-13(b) and 8-1-8.4-7(c)(1) require an adjustment to a public utility’s authorized return for purposes of Ind. Code § 8-1-2-42(g)(3) to reflect incremental earnings from the TDSIC Plans and Compliance Projects. Based on our review of these statutes and the evidence

in this Cause, we find that Petitioner's request to increase the authorized net operating income approved in Petitioner's last base rate cases to include earnings associated with the CSIA filings for purposes of Ind. Code § 8-1-2-42(g)(3) earnings test is reasonable, consistent with the TDSIC and Compliance Statutes, and should be approved.

5. Determination of Pretax Return. For the Compliance Projects revenue requirement component of the CSIA, Petitioner proposed to use the WACC approved in CEI South's most recent base rate case (Cause No. 45447). Fleig Direct, p. 11. Ms. Poole recommended CEI South use the approved WACC from Cause No. 45447 for its TDSIC-1 filing; however, she further recommended in TDSIC-2 and each TDSIC filing going forward, that CEI South update the WACC in the Compliance Component for the most recently approved WACC from the TDSIC Component. Poole Direct, p. 17. On rebuttal, CEI South witness Tieken agreed with Ms. Poole's recommendation and testified Petitioner agrees to update its WACC for the Compliance Component to the most recently approved WACC from the TDSIC Component. Tieken Rebuttal, p. 5-6. She testified this is consistent with CEI South's initial 7-year TDSIC filings in Cause No. 44429.

For the TDSIC Project's revenue requirement component, Petitioner proposed to use a WACC based upon the most recent actual calendar year ended capital structure. Fleig Direct, p. 11. The OUCC recommended CEI South update its capital structure as of the date of valuation of the utility's expenditures for which it is seeking ratemaking treatment, with the cost of equity remaining constant from Petitioner's last general rate case in Cause No. 45447. Poole, p. 17. On rebuttal, Ms. Tieken agreed with the OUCC's recommendation and testified CEI South agrees to update the WACC for the TDSIC Component in each semi-annual TDSIC filing to reflect the WACC as of the date of valuation for CEI South's expenditures in each six-month filing. Tieken Rebuttal, p. 6. Ms. Tieken testified this is consistent with CEI South's initial 7-year TDSIC filings in Cause No. 44429.

Apart from the OUCC's recommendations regarding WACC, the parties did not oppose Petitioner's proposed cost of capital calculation to be used for the CSIA, including agreement on the use of the cost of equity from the last base rate case ~~of each of the Petitioners~~ to calculate CSIA costs. We find Petitioner's proposed cost of capital calculation as modified herein is reasonable and should be approved.

F. Accounting Authority. Petitioner proposes to defer for subsequent recovery as part of its next general base rate case 20% of the revenue requirement of the Compliance Projects and TDSIC Plans including financing costs on projects under construction, post in-service carrying costs, deferred O&M expenses, projected incremental depreciation, and property tax expenses. Fleig Direct, pp. 8-9.

Ind. Code § 8-1-8.4-7(c)(2) provides that "[t]wenty percent (20%) of approved federally mandated costs, including depreciation, allowance for funds used during construction, and post in-service carrying costs, based on the overall cost of capital most recently approved by the commission, shall be deferred and recovered by the energy utility as part of the next general rate case filed by the energy utility with the commission." No party opposed Petitioner's proposed methodology for deferring 20% of the Compliance Projects. Based on our review of the evidence, we find that 20% of the federally mandated costs associated with the Compliance Projects shall be

deferred in accordance with Ind. Code § 8-1-8.4-7(c)(2) consistent with the methodology as described in Petitioner’s witness Fleig’s testimony. Because we find this proposal complies with the Compliance Statute, Petitioner’s proposal is approved.

Ind. Code § 8-1-39-9(b) provides that a “public utility that recovers capital expenditures and TDSIC costs under subsection (a) shall defer the remaining twenty percent (20%) of approved capital expenditures and TDSIC costs, including, depreciation, allowance for funds used during construction, and post in service carrying costs, and shall recover those capital expenditures and TDSIC costs as part of the next general rate case that the public utility files with the commission.” No party opposed Petitioner’s methodology for deferring 20% of the TDSIC costs. Based on the evidence presented, we find that 20% of the TDSIC costs shall be deferred in accordance with Ind. Code § 8-1-39-9(b) consistent with the methodology described in Petitioner’s witness Fleig’s testimony.

In Cause No. 44429/44330, Petitioner also proposed to defer and subsequently recover incremental O&M and depreciation expense on an interim basis prior to inclusion in the CSIA. Fleig Direct, pp. 23-24. In that Cause, Petitioner proposed to defer 80% of the depreciation expenses from the Compliance Projects and the TDSIC Plans from their in-service dates until depreciation expense is included for recovery in the CSIA. *Id.* Ms. Fleig explained that O&M expenses related to the Compliance Projects were charged to FERC Account 182.3, and Petitioner proposes to recover the remaining unrecovered balance of O&M expense that has been deferred for later recovery through the CSIA pursuant to the 44429/44430 Order. *Id.* Ms. Fleig also testified CEI South proposes to include recovery of unrecovered deferred O&M expense from Cause No. 44429 in its next two CSIA filings. *Id.*, p. 20.

The OUCC recommended approval of CEI South’s request to include the unrecovered deferred O&M expenses in the first two CSIA tracker filings. Poole Direct, p. 17. The Commission found Petitioner’s proposal to defer these amounts reasonable in Cause Nos. 44429/44430 and further found Petitioner should be permitted to defer and subsequently recover these costs through the CSIA. Thus, we agree with Petitioner that the authority to defer and recover these costs was approved in Cause Nos. 44429/44430. We find Petitioner’s proposal to include the unrecovered deferred O&M expense in its next two CSIA filings is reasonable and should be approved.

G. Average Aggregate Increase in Total Retail Revenues Resulting from TDSIC. Petitioner’s witness Fleig presented Petitioner’s projected yearly revenue percentage change resulting from the TDSIC Plan in an illustrative schedule (Schedule 8) included with her workpapers. Ms. Fleig explained that illustrative Schedule 8 of the TDSIC Component compares the increase in the TDSIC Component revenue requirement to the prior 12-month retail revenues for CEI South, to ensure that the amounts included for recovery in the CSIA adhere to the statutory requirements. Fleig, pp. 22-23. Petitioner’s witness Fleig testified that CEI South does not expect to exceed the 2% cap during the life of the TDSIC Plan. *Id.*, p. 24.

Ind. Code § 8-1-39-14(a) requires the Commission to find that an approved TDSIC will not “result in an average aggregate increase in a public utility’s total retail revenues of more than two percent (2%) in a twelve (12) month period.” A public utility’s total retail revenues do not

include TDSIC revenues associated with a TED. The Commission has previously found this determination requires comparing the increase in TDSIC revenue in a given year with the total retail revenues for the past 12 months. *See Northern Indiana Public Service Company, Inc.*, Cause No. 44371, p. 20 (IURC February 17, 2014).

We find the Petitioner's proposal ensures the TDSIC being approved herein will not result in an average aggregate increase in total retail revenues of more than 2% in a twelve-month period and is consistent with Ind. Code § 8-1-39-14(a).

H. CSIA Timing. Ind. Code § 8-1-39-9(d) states that “[e]xcept as provided in section 15 of this chapter, a public utility may not file a petition under subsection (a) within nine (9) months after the date on which the commission issues an order changing the public utility's basic rates and charges with respect to the same type of utility service.” Ms. Tieken testified that CEI South filed for a general base rate case on October 30, 2020, in Cause No. 45447. Petitioner received an Order in Cause No. 45447 on October 6, 2021, and Ms. Tieken testified CEI South will not file its first tracker proceeding to set new rates and charges until October 1, 2022. Tieken Direct, p. 10. Accordingly, we find the first tracker case will be filed more than nine months after Petitioner's last general rate case order was issued in accordance with Ind. Code § 8-1-39-9.

Ind. Code § 8-1-39-9(f) states that “[a] public utility may file a petition under this section not more than one (1) time every six (6) months.” Petitioner's witness Tieken testified that Petitioner proposes to file its petition and case-in-chief supporting the CSIA by October 1 and April 1 each year with new rates becoming effective for the six-month periods starting on January 1 and July 1, respectively. Tieken Direct, p. 9. Ms. Tieken testified the petition filed on October 1 will be based on the combined federally mandated costs of the Compliance Projects and capital expenditures and TDSIC costs of the TDSIC Plan through the previous six-month period ended June 30. *Id.* She further testified the petition filed on April 1 will be based on the combined federally mandated costs of the Compliance Projects and capital expenditures and TDSIC costs through the previous six-month period ended December 31. *Id.* Ms. Tieken also testified that variances will be reconciled in each semi-annual CSIA filing. *Id.*

We find that Petitioner's proposed timeline for its CSIA filings is consistent with Ind. Code § 8-1-39-9(f) and is reasonable and should be approved. CEI South's semi-annual filings following the issuance of this Order shall be filed under Cause No. 45612 TDSIC X.

I. Confidentiality. -CEI South filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information on September 10, 2021, which was supported by affidavits showing that certain information to be submitted to the Commission was trade secrets

under Ind. Code § 24-2-3-2. The Presiding Officers issued a Docket Entry on September 21, 2021, finding such information to be preliminarily confidential, after which such information was submitted under seal. After reviewing the information, we find this information qualifies as confidential trade secret information pursuant to Ind. Code §§ 5-14-3-4 and 24-2-3-2. This information shall be held as confidential and protected from public access and disclosure by the Commission and is exempted from the public access requirements contained in Ind. Code §§ 8-1-2-29 and 5-14-3-4.

J. Ultimate Conclusion. –We find CEI South’s Compliance Projects meet the requirements of Ind. Code ch. 8-1-8.4 and should be approved. Further, we find CEI South’s TDSIC Plan meets the requirements of Ind. Code ch. 8-1-39 and should be approved. However, as noted above, the contingency and escalation on contingency should be removed from Petitioner’s proposed TDSIC and Compliance projects.

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

1. The Compliance Projects are compliance projects undertaken to comply with federally mandated requirements within the meaning of Ind. Code ch. 8-1-8.4.

2. Petitioner shall be and hereby is granted a certificate of public convenience and necessity for the Compliance Projects.

3. CEI South’s 2022-2026 TDSIC Plan is reasonable and is approved, with the exception of contingency dollars and escalation on contingency. Within 30 days of this Order, CEI South shall file updated Plans with contingency dollars and escalation on contingency removed from project costs. The OUCC shall have 30 days to review such information and raise any objection with the Commission.

4. The projects identified in CEI South’s 2022-2026 TDSIC Plan constitute “eligible transmission, distribution, and storage system improvements” within the meaning of Ind. Code § 8-1-39-2.

5. Petitioner is authorized to implement its CSIA Rate Schedule as set forth on Petitioner’s Exhibit No. 5, Attachment KJT-1 pursuant to Ind. Code §§ 8-1-39-9(a) and 8-18.4-7(c)(1) to effectuate the timely recovery of 80% of eligible and approved capital expenditures, TDSIC Plan, and Compliance Project costs, including financing costs incurred during construction.

6. Petitioner’s proposed method of calculating a pretax return under Ind. Code § 8-1-39-13 is hereby approved.

7. Petitioner is authorized to defer post in service TDSIC Plan and Compliance Project costs, including carrying costs based on the WACC approved herein, on an interim basis until such costs are recovered for ratemaking purposes through Petitioner’s proposed CSIA mechanism or otherwise included for recovery in its base rates through its next general rate case.

8. Petitioner is authorized to include recovery of unrecovered deferred O&M expenses from Cause No. 44429 in its next two CSIA filings.

9. Petitioner is authorized to allocate the costs associated with its TDSIC Plan and Compliance Projects in accordance with our findings set forth herein.

10. Petitioner shall be and hereby is authorized to ~~continue assessing~~ the CSIA as a ~~fixed monthly volumetric~~ charge to ~~all residential~~ customer ~~classes~~.

11. Petitioner is authorized to defer 20% of eligible and approved capital expenditures and TDSIC Plan costs under Ind. Code § 8-1-39-9(b). Petitioner is also authorized to recover the deferred capital expenditures and TDSIC costs as part of Petitioner's next general rate case.

12. Petitioner is authorized to defer 20% of eligible and approved capital expenditures and Compliance Project costs under Ind. Code § 8-1-8.4-7(c)(2). Petitioner is also authorized to recover the deferred capital expenditures and Compliance Project costs as part of Petitioner's next general rate case.

13. Petitioner is authorized to adjust its net operating income to reflect any approved earnings associated with the CSIA for purposes of Ind. Code § 8-1-2-42(g)(3) pursuant to Ind. Code § 8-1-39-13(b) and Ind. Code § 8-1-8.4-7.

14. Petitioner's proposed process for updating the TDSIC Plan in future CSIA semiannual adjustment proceedings under ~~the~~ Cause No. 45612 TDSIC X is approved as set forth herein. Petitioner shall file its first CSIA on or before October 1, 2022, unless Petitioner otherwise notifies the Commission.

15. This Order shall be 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.**

Dana Kosco
Secretary of the Commission