

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF INDIANA-AMERICAN )  
WATER COMPANY, INC. FOR APPROVAL )  
OF (A) A NEW DISTRIBUTION SYSTEM )  
IMPROVEMENT CHARGE ("DSIC") ) CAUSE NO. 42351 DSIC 11  
PURSUANT TO IND. CODE CHAP. 8-1-31; (B) )  
A NEW RATE SCHEDULE REFLECTING ) APPROVED: MAR 14 2018  
THE DSIC; AND (C) INCLUSION OF THE )  
COST OF ELIGIBLE DISTRIBUTION )  
SYSTEM IMPROVEMENTS IN ITS DSIC )

ORDER OF THE COMMISSION

**Presiding Officers:**

**David E. Ziegner, Commissioner**

**Brad J. Pope, Administrative Law Judge**

On January 18, 2018, Indiana-American Water Company, Inc. ("Indiana-American" or "Petitioner") filed with the Indiana Utility Regulatory Commission ("Commission") its Petition and Submission of Case-in-Chief for approval of a new distribution system improvement charge ("DSIC") pursuant to Ind. Code ch. 8-1-31 and 170 IAC 6-1.1. On January 26, 2018, the City of Crown Point, Indiana ("Crown Point") filed its Petition to Intervene in this Cause, which the Presiding Officers granted on February 5, 2018. On January 29, 2018, Sullivan Vigo Rural Water Corporation ("Sullivan Vigo") filed its Petition to Intervene in this Cause, which the Presiding Officers granted on February 12, 2018. The Indiana Office of Utility Consumer Counselor ("OUCC") filed its case-in-chief on February 19, 2018. Petitioner filed its rebuttal testimony and attachments on February 26, 2018. On February 28, 2018, Sullivan Vigo filed its Motion to Withdraw Intervention, which the Presiding Officers granted on March 1, 2018.

A public evidentiary hearing was convened in this Cause on February 28, 2018, at 1:30 p.m. in Room 224 of the PNC Center, Indianapolis, Indiana. Petitioner, Crown Point, and the OUCC appeared and participated at the hearing and offered their respective evidence into the record, which was admitted without objection.

Based on the applicable law and evidence presented, the Commission now finds:

1. **Notice and Jurisdiction.** Due, legal, and timely notice of the public hearing in this Cause was given and published as required by law. Petitioner also provided notice of its filing in this Cause to its wholesale customers pursuant to 170 IAC 6-1.1-4. Petitioner is a "public utility" within the meaning of that term in Ind. Code § 8-1-2-1 and is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Indiana. Under Ind. Code ch. 8-1-31 and 170 IAC 6-1.1, the Commission has jurisdiction over DSIC proceedings. As such, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. **Petitioner's Characteristics.** Petitioner is an Indiana corporation engaged in the business of rendering water utility service to customers in numerous municipalities and counties throughout the State of Indiana for residential, commercial, industrial, public authority, sale for resale, and public and private fire protection purposes. Petitioner also provides sewer utility service in Wabash and Delaware Counties.

3. **Relief Requested.** Petitioner seeks approval of a DSIC pursuant to Ind. Code ch. 8-1-31, a new rate schedule reflecting the DSIC, and approval of the costs of the eligible Distribution System Improvements ("Improvements") in Petitioner's DSIC. Petitioner's most recent rate order was issued in Cause No. 44450 on January 28, 2015 ("2015 Rate Order"). On December 30, 2015, Petitioner filed a Step Two True-Up to update rate base as set forth in the Stipulation and Settlement Agreement approved by the 2015 Rate Order, which took effect January 29, 2016. The rate base as updated by that true-up is referred to herein as the "2015 Rate Order Rate Base." Petitioner's most recent DSIC was approved in Cause No. 42351 DSIC 10 on March 22, 2017 (the "DSIC 10 Order"), approving a DSIC that when combined with the 1.95% rate approved in Cause No. 42351 DSIC 9 on May 4, 2016 (the "DSIC 9 Order"), would equate to a 6.60% rate, calculated to produce total annual DSIC revenues of \$8,292,811. This surcharge was reduced to 6.40% because of the DSIC 9 reconciliation approved by the Commission with an effective date of May 17, 2017 (the "DSIC 9 Reconciliation Order"). In accordance with the Commission's rules, Petitioner's Reconciliation Report for the DSIC 10 Order is not due for filing until the end of the 30-day period beginning March 22, 2018. The DSIC Improvements approved in the DSIC 10 Order consisted of non-revenue producing projects placed in service between December 1, 2015, and November 30, 2016, and were not included in Petitioner's 2015 Rate Order Rate Base.

Petitioner proposes to add to the DSIC approved in the DSIC 9 Order, the DSIC 10 Order, and the DSIC 9 Reconciliation Order, non-revenue producing projects placed in service between December 1, 2016, and November 30, 2017, that were not included in the 2015 Rate Order Rate Base or prior DSICs. Petitioner's proposed DSIC would produce total annual DSIC revenues of \$7,404,634. The total DSIC combined revenues for DSIC 9 (including reconciliation), DSIC 10, and DSIC 11 are \$17,626,142 as shown on Pet. Ex. 1, Att. SSH-2, Schedule 1. The combined DSIC 9 (including reconciliation), DSIC 10, and DSIC 11 revenues represent less than 10% of the base revenue level approved in the 2015 Rate Order (as adjusted by the Step Two True-Up). Petitioner determined that the total number of meter equivalents for the DSIC 11 12-month period was 4,506,747. The total DSIC revenue of \$17,626,142 divided by the total meter equivalents results in Petitioner's proposed monthly surcharge of \$3.91 per equivalent 5/8" meter.

4. **Petitioner's Direct Evidence.** Petitioner presented the direct evidence of Gary M. VerDouw, Director of Rates and Regulatory for Indiana-American, and Stacy S. Hoffman, Director of Engineering for Indiana-American.

A. **Calculation of DSIC 11.** Mr. VerDouw testified regarding the filing requirements and methodology for calculating the DSIC. Mr. VerDouw provided evidence regarding the calculation of the proposed DSIC, and he sponsored Petitioner's proposed rate. Mr. VerDouw explained how the surcharge was calculated in previous years as a percentage that was applied to both the consumer's volumetric and metered service charge revenues for all rate groups. He also explained that amendments to Ind. Code § 8-1-31-8 have caused the surcharge

applicable to the total DSIC revenue requirement to be calculated as a fixed charge based upon a meter equivalency size in this proceeding. Mr. VerDouw explained that Petitioner currently has a DSIC surcharge in effect of 6.40%, which was approved by the Commission with an effective date of May 17, 2017, resulting from the DSIC 9 reconciliation. Mr. VerDouw testified that Petitioner proposes to add to the DSIC 9 reconciliation, DSIC 9, and DSIC 10 surcharge an additional surcharge to include only non-revenue producing projects placed in service between December 1, 2016, and November 30, 2017, that were not included in rate base in the 2015 Rate Order Rate Base.

Mr. VerDouw then discussed how Petitioner calculated the Net Investor Supplied DSIC Additions. He stated that Petitioner started with Improvements of \$70,165,650 which he reduced by the amount of related plant retirements (shown on Pet. Ex. 1, Att. GMV-2, Schedule 1, Line 1), consistent with the DSIC 8 Order. The actual amount of the cost of removal, net of salvage, of \$7,648,906 was then added. Mr. VerDouw stated that there were total reimbursements from the Indiana Department of Transportation (“INDOT”) and others in the amount of \$179,611. These reimbursements were removed from the Improvements, resulting in Net Investor Supplied DSIC Additions of \$71,859,523, as shown on Pet. Ex. 1, Att. GMV-2, Schedule 1, Line 5).

Mr. VerDouw also explained that the rate of return used in this proceeding is Petitioner’s weighted average cost of capital computed from Petitioner’s capital structure as of November 2014. He testified that Petitioner used the average embedded debt cost rate as of November 2014 to determine the long-term debt cost rate. The common equity cost rate of 9.75% is the rate approved by the Commission in the 2015 Rate Order. The weighted cost of capital of 6.60% and pre-tax rate of return of 8.13% were derived as shown on Pet. Ex. 1, Att. GMV-2, Schedule 4. Mr. VerDouw stated the pre-tax rate of return was calculated using a gross revenue conversion factor of 137.7717%, calculated using those taxes and fees that will be in effect during the time the DSIC Revenues are billed. The IURC Fee used is the fee billed by the Commission as of July 1, 2017, of 0.1338381%, consistent with the direction provided by the Commission in the DSIC 10 Order. The State Income Tax reflects three months of an Indiana State Income Tax rate of 6.0% and nine months at a rate of 5.75% for a blended State Income Tax rate of 5.8125%. The gross-up calculation also reflects the new Federal Income Tax rate of 21%, which was part of the Tax Cuts and Jobs Act of 2017. Mr. VerDouw stated that the gross revenue conversion factor was multiplied by the weighted cost of non-debt components of the capital structure to determine the pre-tax return of 8.13%.

Mr. VerDouw stated that Petitioner determined its depreciation expense of \$1,562,455 by using the annual depreciation rates by primary plant account previously approved by the Commission, multiplied by the Improvements, net of related retirements.

Mr. VerDouw explained how the annual revenue requirement of \$7,404,634 for DSIC 11 was calculated. He then restated the revenue requirements previously approved in the DSIC 9 Order and the DSIC 10 Order (which were adopted prior to the reduction in the federal income tax rate) to also reflect the Tax Cuts and Jobs Act so that the entire DSIC revenue requirement (DSIC 9, 10, and 11) reflect the lower corporate federal income tax rate. He testified and provided schedules showing that proposed DSIC Revenues of \$17,626,142, resulting from combining DSIC 9 reconciliation, DSIC 9, DSIC 10, and DSIC 11 totals, do not exceed 10% of Petitioner’s base revenue level.

**B. Description of DSIC Improvements.** Petitioner's witness Stacy S. Hoffman sponsored Pet. Ex. 2, Att. SSH-1, which provides a summary of costs for non-blanket and blanket project categories, and Pet. Ex. 2, Att. SSH-2 and Pet. Ex. 2, Att. SSH-3, which provide the list of projects included in this DSIC. Pet. Ex. 2, Att. SSH-2 lists non-blanket projects individually by project number with project description, the date placed in service, the project purpose, the resulting benefits, the applicability of easements, the range of age of plant retired, pipe diameters, pipe length, and the total costs incurred. Pet. Ex. 2, Att. SSH-3 lists statewide blanket projects by project number with project description, the project purpose, the resulting benefits, the range of age of plant retired, and the total costs incurred. Pet. Ex. 2, Att. SSH-3 also lists quantities of blanket project assets replaced. Pet. Ex. 2, Att. SSH-4 lists all projects with additional cost detail by utility account. Pet. Ex. 2, Att. SSH-5 lists all projects with retirement cost detail by utility account. Pet. Ex. 2, Att. SSH-6 lists all projects with cost of removal and salvage detail by utility account. Mr. Hoffman stated that Petitioner has invoices and other cost support for all projects listed in Pet. Ex. 2, Att. SSH-2 and Pet. Ex. 2, Att. SSH-3.

Mr. Hoffman generally described the types of projects included in Pet. Ex. 2, Att. SSH-2 and Pet. Ex. 2, Att. SSH-3. He stated that all of the Improvements included in this Cause are replacement infrastructure, reinforcement projects, and distribution system retirements. He explained that replacement infrastructure includes water mains, tanks, tank coating systems, valves, hydrants, service lines, and meters. He explained that a portion of the replacement infrastructure is associated with right-of-way improvements projects wherein the location of Indiana-American infrastructure directly conflicted with other public infrastructure improvement projects like road and sewer projects. Other projects included replacement of obsolete water mains, tanks, tank coating systems, hydrants, valves, meters, and service lines that are in poor condition or hydraulically deficient for providing adequate service including public fire protection. He further explained that reinforcement infrastructure consists of mains, valves, and hydrants with the purpose of improving pressure, fire flow, and service reliability of the existing distribution system. He testified that all of the retirements associated with the new infrastructure were recorded on Indiana-American's books and records as of the date of Petitioner's filing. He also testified that no costs of removals were estimated. Mr. Hoffman explained that all of the projects listed individually in Pet. Ex. 2, Att. SSH-2 and Pet. Ex. 2, Att. SSH-3 represented eligible DSIC projects, including the blanket categories. He explained the presentation of the blanket projects, noting that blanket categories are used for common, similar activities like replacement meters, service lines, hydrants, and unscheduled main replacements.

Mr. Hoffman also testified about Indiana-American's comprehensive capital improvement planning studies for each of Indiana-American's operations. He explained that the studies include a thorough evaluation of demand projections, regulatory requirements, asset service reliability and quality, replacement of poor condition infrastructure, asset impacts on safety and efficiency, public fire protection, and environmental sustainability. He testified that Indiana-American performs an evaluation used for long-term distribution system asset investment planning modeled on a multi-decade forward projection of pipeline asset replacement needs based on distribution pipe materials and the decades of installation of the pipe materials. Another evaluation is used for near-term distribution system asset investment planning, which is a detailed modeling of the distribution systems that identifies service risks associated with pipeline failure risks for all pipes in Indiana-American's distribution system. Mr. Hoffman described the key inputs to Indiana-American's five-year capital investment plan as including a multi-decade forward projection of pipeline asset

replacement needs, prioritization modeling of Indiana-American's 4,850 miles of distribution pipe, customer rates, and service reliability and impacts. The multi-decade forward projection of pipeline asset replacement needs utilizes the American Water Works Association ("AWWA") software analytics tool, "Buried No Longer Pipe Replacement Modeling Tool." Mr. Hoffman stated this modeling projects that pipe replacement needs range from a current projected need of a near 1% annual replacement rate to an annual rate of near 1.5% by the decade of 2030. He testified that the significant gap between the current projected annual pipeline replacement rate need of near 1% and Indiana-American's current actual nine-year annual average pipe replacement rate of only 0.33% without including relocations, and 0.48% including relocations translates to a need to increase Indiana-American's annual pipe replacements. He explained that this gap translates to an unrealistic pipe life expectancy of over 200 years, as compared to a more realistic pipe life expectancy of 50 to 100 years. He stated that many pipes in Indiana-American's system that were installed from 50 years ago to over 100 years ago are at or nearing the end of their expected useful life. He indicated Indiana-American is planning to increase its replacement rate in the coming years.

Mr. Hoffman went on to describe the "tidal wave" effect on the future cost to customers caused by deferral of pipe replacements year by year. He explained that to the extent pipe replacement needs are deferred further into the future, service quality will suffer from increasing numbers of pipe breaks, service disruptions, health risks from potential drinking water contamination exposure during pipe breaks, property damages, and related community opportunity costs related to community health and economic development. He referred to recent AWWA and Water Research Foundation reports highlighting the challenge of aging infrastructure for utilities, customers, and regulators, as well as a report prepared by the Economic Development Research Group, Inc. for the American Society of Civil Engineers that calculated estimates of economic impacts of failing to invest in water infrastructure across the country. Both Mr. Hoffman and Mr. VerDouw referenced the 2016 report published by the Indiana Finance Authority which estimated current utility infrastructure needs to be \$2.3 billion with an additional projected \$815 million annual spend to maintain the utilities into the future. Mr. Hoffman discussed the various challenges to closing the current gap in main replacement rates including the challenge of effectively educating all stakeholders about: (1) buried pipe infrastructure and its function in providing reliable water service; (2) the cost of replacing poor condition pipes and the link to the cost of providing water service; and (3) the consequences of delaying replacement of poor condition pipes. He also noted the challenge of attracting reasonable cost of capital.

Mr. Hoffman testified about Indiana-American's prioritization model for identifying pipeline replacement investment needs. He stated that in July 2015, Indiana-American met with Commission staff, representatives of the OUCC, Crown Point, and the Town of Schererville to review details of Indiana-American's pipeline prioritization model and process. He testified about the long-term benefits that can result from using these models to develop a more systematic approach to replacing poor condition pipes. He stated prioritization models are excellent tools for a prudent asset management approach.

Mr. Hoffman testified regarding what types of projects are eligible for inclusion in Petitioner's DSIC filings. Mr. Hoffman explained that Petitioner has been involved in 11 DSIC filings and, over the years, the Commission's Orders have clarified and provided guidance on the types of projects it considers to satisfy the DSIC statute's requirements.



Mr. Hoffman described three categories of meter replacements included in this DSIC 11: (1) meters replaced as part of Indiana-American's length of service ("LOS") plan; (2) meters replaced under Indiana-American's accelerated automated meter reading ("AAMR") plan that were or would have been ten years old or older as of November 30, 2017; and (3) meters replaced or moved while moving the meter location from inside the customer building to a meter pit outside the customer building, otherwise referred to as "meter move-outs." He stated that meter move-outs also include replacement of failed curb stops with new meter pit installations where the meter location was previously inside the customer building. He described the LOS plan, which consists of replacing meters at the LOS age approved by the Commission in Petitioner's 30-Day Filing No. 2610 approved on January 20, 2010, and of replacing broken meters regardless of age. He then described the AAMR category of meters, citing the Commission's Order dated December 27, 2012, in Cause No. 42351 DSIC 7 (the "DSIC 7 Order") as support for inclusion of meters that were or would have been ten years old or older as of November 30, 2017. He stated additions and cost of removals for the AAMR meters ten years old and older were calculated from the actual material and installation costs for these meters. He stated retirement values for the ten years old and older meters were calculated at gross original cost and computed using the Handy-Whitman index to trend back current day costs to original costs because Indiana-American's financial system for these mass assets does not show original cost for this specific subset of ten years old and older meters.

Mr. Hoffman also testified about the inclusion of tank-related projects in Petitioner's proposed DSIC, referring to the DSIC 7 Order in which the Commission authorized DSIC recovery on tank-related projects consisting of foundation rehabilitations, a paint rehabilitation, a tank roof replacement, and some distribution pump work to enable Indiana-American to take the tanks offline. He testified that the tank-related projects included in this DSIC 11 are similar to those included in DSIC 7 insofar as they consist of capital rehabilitation work on existing tanks and not construction of new tanks. He described the tank-related projects in this DSIC 11 as consisting of replacement of tank coating systems, structural steel, and tank appurtenances. He noted the projects are recorded in the National Association of Regulatory Utility Commissioners ("NARUC") Uniform System of Accounts distribution accounts, do not increase water storage capacity, and otherwise meet the statutory criteria to qualify as eligible distribution system improvements.

Mr. Hoffman testified that all Improvements listed in Pet. Ex. 2, Att. SSH-2 and Pet. Ex. 2, Att. SSH-3 meet the DSIC statutory requirements. He testified that none of the projects increase revenues by connecting the distribution system to new customers, all of the projects are in service, none of the projects were previously included in rate base, all necessary local, state and federal permits, approvals, and authorizations have been obtained, and there was no affiliate involvement in any of the transactions. Mr. Hoffman explained that as Director of Engineering he has familiarity with these projects through regular communication with Indiana-American Engineering staff during the planning, design, and construction phases of these projects. Indiana-American project managers also confirm projects are in service through a physical inspection and then enter in-service dates for completed projects in Indiana-American's accounting software system. He testified that he verified that none of the project costs identified in this Cause were included in rate base in any prior Causes. Mr. Hoffman also explained that some of the project costs included in this DSIC 11 are for projects that were placed in service prior to December 1, 2016, but were not

included in DSIC 10 and were not previously included in rate base in any prior case because the costs were incurred subsequent to the most recent rate base cutoff or because Indiana-American had not completed all accounting for these costs by the most recent rate base cutoff.

Mr. Hoffman testified regarding the funding of the Improvements. He stated that projects included in this DSIC 11 were funded by Petitioner or were reimbursed by INDOT or others, as noted by Mr. VerDouw.

Mr. Hoffman stated Petitioner has a five-year Strategic Capital Expenditure Plan that provides for budgeted amounts of approximately \$355,000,000 for replacement mains, reinforcement mains, DSIC tank related work, hydrants, services, and meters for the period 2018-2022. He testified that included in this amount is approximately \$32,500,000 budgeted over the same period for water main replacements required by state and local governments as a result of road improvements and other projects.

**5. OUC's Case-in-Chief.** The OUC presented testimony of Richard J. Corey and James T. Parks. Mr. Parks described his review of Petitioner's application for DSIC 11 and recommended that the Commission only allow Petitioner to include \$1,578,137.57 of the \$2,031,492.57 Petitioner seeks to include for the project shown in Pet. Ex. 2, Att. SSH-2 as I10-650007-01 SHL McKay Rd EST Rehab Shelbyville Tank Painting/Rehab (the "McKay Project"). The McKay Project included, among other improvements, interior and exterior sandblasting to remove the old tank coating followed by recoating with a primer, an intermediate coat, and a final coat.

Mr. Parks testified that total cost of the McKay Project is comparable to the cost for a new 1.0 MG elevated storage tank. Mr. Parks noted that the painting and rehabilitation cost Petitioner incurred for the McKay Project exceeded the estimate prepared by Petitioner's engineering firm, Tank Industry Consultants ("TIC"), of \$1,253,000 ("the engineer's estimate") for the total base cost, which included additional work allowances, and \$1,318,000 for project cost with two selected alternatives.

Mr. Parks testified that Petitioner did not competitively bid the McKay Project. Rather, he testified that Petitioner received bids from preselected painting contractors and did not openly advertise the project to allow other tank painting contractors to bid. Mr. Parks testified that in his experience, high painting prices may have occurred because Petitioner limited bidders to only preselected contractors in a rushed process that was started late in the year when many painting contractors already have contracts for other tank jobs. He further testified that the preselected contractors only had 20 days to prepare their bids, and potential bidders attending the pre-bid meeting would have known that few other potential bidders attended.

Mr. Parks testified that because the painting prices were higher than the engineer's estimated cost, Petitioner should have: (1) evaluated with its engineer the reasons for the high bids and why so few bidders participated; (2) rejected the bids because they were much higher than the engineer's estimate; and (3) rebid the project later in 2017 with the goal of attracting more bidders and more favorable pricing.

Mr. Parks testified that he believed Petitioner could have obtained a bid price more in line with the engineer's estimate. Therefore, Mr. Parks recommended that the Commission exclude \$453,355 from the calculation of DSIC 11 for the McKay Project.

Mr. Corey also testified regarding the McKay Project. Mr. Corey explained that the difference between his calculation of the DSIC and Petitioner's calculation is due to his exclusion of the \$453,355 of DSIC 11 additions relating to the McKay Project as discussed in Mr. Parks' testimony. Mr. Corey ultimately recommended that the Commission exclude \$453,355 from the calculation of the DSIC for the reasons explained in Mr. Parks' testimony and that the Commission approve a monthly DSIC rate per equivalent 5/8" meter of \$3.90.

**6. Petitioner's Rebuttal.** Petitioner presented rebuttal testimony of Stacy S. Hoffman to respond to statements in the direct testimony of Mr. Parks. Mr. Hoffman testified that the McKay Project was not delayed and the bidding process was not rushed as suggested by Mr. Parks. Mr. Hoffman testified that Mr. Parks cited a number of things that led him to conclude that the project was delayed and rushed including communications between Petitioner and Shelbyville, the time of the year the project was started, the length of the bidding process, and the bid amounts that were actually received, all of which Mr. Hoffman rebutted.

Mr. Hoffman testified that Mr. Parks provided no factual or engineering basis for his assertions that the successful bid price was high. Mr. Hoffman rebutted the various assumptions and inferences upon which Mr. Parks based his assertions that the bid price was too high because: (1) the project was started late in the year, and contractors already had contracts for other tank projects; (2) the project bidding was rushed; (3) Petitioner prequalifies contractors; (4) there were not more than three bidders; and (5) the bid was higher than the engineer's estimate.

**A. The Project Started Late in the Year.** Mr. Hoffman rebutted Mr. Parks' conclusion that the time of year in which Petitioner started the project was an indication the bidding process was rushed. Mr. Hoffman reiterated that the process was not rushed, and Mr. Parks' assertion that it was started late in the year is simply wrong. Mr. Hoffman explained that it is common for many communities and utilities to perform tank rehabilitation work either in the spring or in the fall because tanks provide important storage for peak hourly flows during the day. He stated that, depending on the type and magnitude of the tank rehabilitation work, it is often feasible that tank contractors perform desired work in the spring or fall, barring an unusual number of rain days, high humidity days, or low temperature days that would prevent blast and paintwork. He indicated that Indiana-American usually prefers to start work towards the end of summer and complete work through the fall season because days of precipitation and high humidity occur less often during that time as compared with the spring.

Mr. Hoffman testified that it is common for communities and utilities to strive for a construction schedule that avoids extending work through multiple seasons. He stated that the goal is not to suspend fall tank work through the winter resulting in needing to recommence work again in the spring. Mr. Hoffman explained that utilities do this to avoid the tank being out of service for an extended period of time, which would result in the community lacking a critical component of community fire protection. He also reiterated that the project started earlier in the year compared with other, more typical tank work schedules that are started in the fall. He stated that Mr. Parks



provided no evidence for his assertion that tank contractors already had contracts for other tank projects.

Mr. Hoffman testified that the McKay Project and bidding process was not started late in the year as Mr. Parks asserted in his testimony, but rather the project actually started earlier in the year and was performed on a longer project schedule as compared with a typical fall season tank rehabilitation project for the Petitioner. Mr. Hoffman testified that a number of factors contributed to Petitioner planning for a longer project schedule including the fact that the McKay Road Tank is a relatively large elevated tank at one million gallons volume, the tank had a legacy lead-based paint system, and the tank is situated in the midst of a developed community. Mr. Hoffman testified that these factors encouraged Petitioner to plan for a longer work duration than the typical fall season work, which is why Petitioner bid the work and awarded the project in the spring so that mobilization and construction could start by early summer versus late summer (when most fall tank rehabilitation projects start). Mr. Hoffman testified that Petitioner started the project in early summer, specifically June 1, thereby providing a longer work window through the end of fall, which is typically November. Mr. Hoffman testified that despite Mr. Parks' assertions, the project was actually started earlier in the year and was scheduled for a longer timeline than the majority of Petitioner's rehabilitation projects.

**B. The Project Bidding Was Rushed.** Mr. Hoffman testified that the communications between Petitioner and Shelbyville to which Mr. Parks cited do not indicate the McKay Project was delayed or that the bidding process was rushed. Mr. Hoffman testified that he presumed Mr. Parks' used the phrase "may have been rushed" because he acknowledged these communications do not demonstrate anything about a project delay or about "rushing" the process. Mr. Hoffman testified that Mr. Parks interpreted these communications through the lens of a delay and rushing theme, despite these being normal communications that take place in managing a construction schedule for a project. Mr. Hoffman testified that these communications indicate that Petitioner developed a specific project schedule for the McKay Project work in 2017. Mr. Hoffman also explained these communications indicate that Petitioner's team member assisting with the management of the schedule was attempting to ensure the work was performed on schedule. Mr. Hoffman testified that Mr. Parks' suggestion that these communications are anything otherwise is reading something into these communications that is simply not there and adding a meaning to the communication that only Mr. Parks chose to add.

Mr. Hoffman testified that he does not agree with Mr. Parks' assertion that the bidding process for the McKay Project was cut short due to delay in the project, and he testified that it was not shorter than other bid processes for this type of work. Mr. Hoffman testified that the contractors were given nearly three weeks to bid the project, which is typical bid time for this type of work. He stated that bidders who participated in this bid process were very familiar with the scope of work and what the project entailed. Mr. Hoffman testified that the contractors had more than enough time to prepare bids, and the process was not rushed. He also testified that none of the invited bidders requested more time to bid on the project.

Mr. Hoffman testified that Petitioner planned and scheduled time for a pre-bid meeting at the project site to allow contractors to inspect the site and learn more details about the work involved. Mr. Hoffman testified that the pre-bid meeting was probably not necessary because based on his considerable direct experience with tank rehabilitation projects and knowledge of the

process, it is rare that a contractor wants to visit the tank site and inspect it before bidding due to the tank rehabilitation contractors' vast experience with this type of work. Mr. Hoffman testified that contractors go online to view an aerial view of the site to observe properties around the site and to plan equipment and materials staging for bidding. Mr. Hoffman testified that given his experience, he knew a pre-bid meeting likely was not necessary, but Petitioner still planned and scheduled time in this project to require a mandatory pre-bid meeting on the project site.

Mr. Hoffman reiterated his testimony that Mr. Parks' assertion that the project bidding process was rushed is false. He also reiterated that the project started earlier in the year compared with other, more typical tank work schedules that are started in the fall. He stated that Mr. Parks provided no evidence for his assertion that tank contractors already had contracts for other tank projects.

**C. Petitioner's Prequalifying of Bidders.** Mr. Hoffman testified that Mr. Parks presented no factual basis for his assertion that Petitioner prequalifying bidders led to a higher bid price. Mr. Hoffman stated that it is common for a competitive bid process like this one to solicit bids from many contractors and receive three bids. He testified that prequalified contractors have demonstrated safe working practices, quality work, and performance of schedule. Mr. Hoffman testified that safety is extremely important on all types of projects, but this is especially true for projects where work is being performed on 160-foot tall tanks. Mr. Hoffman testified that a contractor's ability to perform quality work is also important. Poor quality work can result in even higher asset life cycle costs because shoddy work quality can lead to shorter life assets, opportunity costs of rework, and potential litigation costs associated with poor quality work. Mr. Hoffman also testified that a contractor's proven performance of schedule is also very important so that tanks and other assets can be returned to service on schedule and recommence providing their intended service to the community including public fire protection.

Mr. Hoffman testified that that while opening the bidding process to all potential bidders as Mr. Parks suggests could potentially produce a greater number of bids, it would not produce a greater number of quality bids. Mr. Hoffman testified that Petitioner is not interested in spending its time or resources evaluating low quality bids that ultimately produce low quality work. Mr. Hoffman testified that Petitioner invited 11 contractors to bid on the McKay Project and that Petitioner reviewed the three bids received and determined that they were market price for the bid work and commensurate with the specific scope of work for this particular tank at this particular site. Mr. Hoffman testified that Petitioner's bid process was in line with standard industry practice and that Mr. Parks has presented no evidence to prove the successful bid was somehow high.

**D. There Were Not More than Three Bids.** In response to Mr. Parks' assumption that the successful bid must be high because only three bidders submitted bids in the process, Mr. Hoffman explained that in his experience, it is not at all uncommon to receive three bids in a competitive bidding process. He further testified that, in fact, Petitioner received the same number of bids for similar work on the Norplex tank project, which is contained in this DSIC and the costs for which Mr. Parks has apparently accepted. Mr. Hoffman testified that it does not matter that one of the bids received was technically not responsive because the contractor could not complete the work in 2017. Mr. Hoffman testified that this does not change the analysis because the bidder who stated they could not do the work in 2017, submitted their bid for 2018, and their price for completing the work in 2018 was actually higher than the successful bid for completing

the work in 2017. Mr. Hoffman testified that because Petitioner already received two responsive bids, and because the third bid for 2018 was higher than those received for 2017, it chose not to consider rebidding the work for 2018.

**E. The Successful Bid Was Higher than the Engineer's Estimate.** Mr. Hoffman testified that the fact that the successful bid was higher than the engineer's estimate is in no way proof that the successful bid is higher than the actual market price. He stated that an engineer's estimate is exactly that - an estimate - and it is an estimate by someone who is not a tank rehabilitation contractor. Mr. Hoffman testified that soliciting and receiving bids for work for which bidders are prepared to sign a contract and deliver on is the precise practice typically used to determine market prices. He stated that Mr. Parks' assertion that the cost estimate provided by TIC was reasonable simply because TIC is a nationally recognized water tank consultant does not make their estimate any better than the actual market price derived from competitive bidding amongst actual tank rehabilitation contractors. Mr. Hoffman further explained that Petitioner did not engage TIC to establish market price for the McKay Project, but it contracted with TIC on the McKay Project for their inspection services expertise. Mr. Hoffman pointed out that the market prices for the McKay Project and the Norplex rehabilitation (which project Mr. Parks accepted for inclusion in this DSIC) were virtually identical on a cost per gallon basis with the cost per gallon for each tank being within 2% of each other.

Mr. Hoffman responded to Mr. Parks' testimony that Petitioner plans to build a new tank in Shelbyville at some point in the future. Mr. Hoffman explained that there is no relation between the planned ground tank and pump station recommended in Petitioner's 2007 Demand and Distribution Study and the McKay Road Tank. He testified that despite Petitioner having provided Mr. Parks with the Study, Mr. Parks inferred a relationship between the two tanks, as if the planned new tank could be built and the McKay Road Tank could be retired. Mr. Hoffman testified that this is completely opposite of what Petitioner stated in reply to the OUCC data requests. Mr. Hoffman also rebutted Mr. Parks' estimate of the cost to build the new tank. He noted that Mr. Parks' budgetary estimates do not include land, site work, and engineering costs, yet these excluded parts of a tank project can be significant costs. Mr. Hoffman testified that Mr. Parks also does not account for other necessary costs like inspection, electrical work, and SCADA work, and Mr. Parks neglected to mention pipelines costs, which can be very significant. Mr. Hoffman provided evidence of project costs for eight prior Indiana-American new elevated tank projects that were significantly higher than the tank-only-budgetary estimates Mr. Parks presented.

Mr. Hoffman testified that Petitioner delivered the McKay Project responsibly and prudently, and Petitioner received market price for the work from the successful bidder. Mr. Hoffman testified that Mr. Parks' recommendation should be rejected, and Petitioner should be allowed to include the full cost of the work for rehabilitation of the Shelbyville McKay Road Tank in this DSIC.

## **7. Commission Discussion and Findings.**

**A. DSIC Requirements and Calculation.** Ind. Code ch. 8-1-31 requires the Commission to approve a DSIC in order to allow a water utility to adjust its basic rates and charges to recover a pre-tax return and depreciation expense on eligible infrastructure improvements. Ind.

Code § 8-1-31-5 defines eligible infrastructure improvements for water distribution infrastructure of a public utility as new used and useful water utility plant projects that:

- (a) do not increase revenues by connecting the distribution system to new customers;
- (b) are in service; and
- (c) were not included in the public utility's rate base in its most recent general rate case.

Under Ind. Code § 8-1-31-6, the rate of return allowed on eligible distribution system improvements is equal to the public utility's weighted cost of capital. Unless the Commission finds that such determination is no longer representative of current conditions, Ind. Code § 8-1-31-12 provides that the cost of common equity to be used in determining the weighted cost of capital shall be the most recent determination by the Commission in a general rate proceeding of the public utility.

Furthermore, in 2017, the Indiana Legislature passed House Enrolled Act 1519, which changed how the DSIC surcharge is to be calculated. In the past, the surcharge was to be calculated as a percentage that was applied to both the consumer's volumetric and metered service charge revenues for all rate groups. Now, Ind. Code § 8-1-31-8, as amended by P.L. 91-2017 (effective July 1, 2017), states as follows:

Sec. 8. (a) Except as provided in subsection (d), an eligible utility may file with the commission a petition setting forth rate schedules establishing an amount that will allow the adjustment of the eligible utility's basic rates and charges to provide for recovery of infrastructure improvement costs. **The adjustment shall be calculated as a monthly fixed charge based upon meter size.** (Emphasis added.)

As a result, Petitioner is now required to calculate the surcharge applicable to the total DSIC revenue requirement as a fixed charge based upon a meter equivalency size.

#### **B. Approval of Proposed DSIC.**

i. McKay Road Tank. The only issue in dispute is how much of the McKay Project's costs should be included in this DSIC. Mr. Parks includes considerable testimony and attachments which largely consist of questions about what "may" have occurred during the pre-bid and bid selection processes. He speculates, for instance, that "higher painting prices may have arisen," and that the "project bidding may have been rushed." Pub. Ex. 2, p. 11. However, Mr. Parks' voluminous exhibit is devoid of any evidence that the project was rushed, that higher painting prices resulted from any flaw in the process, or, most importantly, that the price as competitively bid for this project was unreasonably high. Speculation about what "may" be is not evidence.<sup>1</sup> Mr. Hoffman fully answered all of the questions Mr. Parks raised. We find it particularly compelling that the price per gallon for the McKay Road Tank is nearly identical to the price per gallon for the Norplex tank, which Mr. Parks did not dispute, for purposes of this

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<sup>1</sup> "An expert's opinion that something is 'possible' or 'could have been' is insufficient to support a material factual question." *Cohen v. Pride Vending Serv.*, 659 N.E.2d 1159, 1163 (Ind. Ct. App. 1995), *trans. denied*.

proceeding. Accordingly, we find that the entire cost of the McKay Road Tank refurbishment is an eligible distribution system improvement.

ii. Projects and Amounts to Be Included as Distribution System Improvement Charges. Because we have found the entire cost of the McKay Project is an eligible infrastructure improvement, we find the total cost for the additional net investor supplied DSIC Additions is \$71,859,523. We find the pre-tax return associated with those additions, as calculated in accordance with Ind. Code ch. 8-1-31, is \$5,842,179. The revenue requirement for depreciation on the Improvements is \$1,562,455, for a total DSIC 11 revenue requirement of \$7,404,634. The total revenue requirement associated with the DSIC 9 (including reconciliation), 10, and 11 Improvements, after reflecting the Tax Cuts and Jobs Act, is \$17,626,142, which is below 10%, of the revenues authorized in Petitioner's last rate case, which therefore is not subject to reduction under Ind. Code § 8-1-31-13.

Furthermore, the evidence shows that all of the projects reflected in the proposed DSIC are in service, do not result in the addition of new customers to Petitioner's system, and fall into the NARUC Uniform System of Accounts for Water Utilities Accounts 304, 311, 320, 330, 331, 333, 334, or 335. As such, they are eligible for inclusion in a DSIC.

The evidence further shows that Petitioner calculated the DSIC surcharge in this proceeding as a monthly fixed charge based upon meter size, as required by amended Ind. Code § 8-1-31-8. Specifically, Petitioner proposes a new DSIC 11 monthly surcharge of \$3.91 per equivalent 5/8" meter.

Based on the evidence presented, the Commission finds that Petitioner's request for a DSIC complies with the requirements of Ind. Code ch. 8-1-31 and 170 IAC 6-1.1. Further, Petitioner's proposed DSIC is non-discriminatory, reasonable, and just. We find that Petitioner is therefore authorized to collect from each of its present and future water customers a monthly DSIC of \$3.91 per equivalent 5/8" meter as set forth in Pet. Ex. 1, Att. GMV-1.

**C. Reconciliation of Petitioner's DSIC.** Petitioner should be prepared to reconcile the DSIC approved by this Order in the manner prescribed by Ind. Code § 8-1-31-14 and 170 IAC 6-1.1-8. Under Ind. Code § 8-1-31-14, at the end of each 12-month period a DSIC is in effect the difference between the revenues produced by the DSIC and the expenses and the pre-tax reflected in it should be reconciled and the difference refunded or recovered as the case may be through adjustment of the DSIC.

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

1. A Distribution System Improvement Charge, calculated as a monthly fixed charge of \$3.91 per equivalent 5/8" meter and designed to generate total annual DSIC revenues of \$17,626,142, is approved for Petitioner Indiana-American Water Company, Inc.

2. Prior to placing into effect the above-authorized DSIC, Petitioner shall file with the Water/Wastewater Division of the Commission, under this Cause, Petitioner's Exhibit 1, Attachment GMV-1 as an appendix to its schedule of rates and charges for water service.

3. The above-authorized DSIC shall be subject to reconciliation as described in Finding No. 7(C) above.

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

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

**APPROVED:**      MAR 14 2018

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

  
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**Mary M. Becerra**  
**Secretary of the Commission**