

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”) PURSUANT TO IND. CODE)
CHAP. 8-1-31; (B) A NEW RATE SCHEDULE)
REFLECTING THE DSIC; AND (C) INCLUSION OF)
THE COST OF ELIGIBLE DISTRIBUTION SYSTEM)
IMPROVEMENTS IN ITS DSIC)

CAUSE NO. 42351 DSIC 9

APPROVED: JUL 20 2016

ORDER ON RECONSIDERATION

Presiding Officers:
James F. Huston, Commissioner
Aaron A. Schmoll, Senior Administrative Law Judge

On May 4, 2016, the Indiana Utility Regulatory Commission (“Commission”) approved its Order in this Cause (“May 4 Order”). On May 24, 2016, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed its Petition for Reconsideration and Clarification (“Petition”). On June 2, 2016, Indiana-American Water Company, Inc. (“Petitioner” or “Indiana-American”) filed its Response, and on June 9, 2016, the OUCC filed its Reply. On June 10, 2016, the Indiana Court of Appeals issued an order staying appellate jurisdiction to provide the Commission jurisdiction to address the Petition.

170 IAC 1-1.1-22(e) allows a party to file a petition for rehearing and reconsideration within twenty days after the entry of a final order. 170 IAC 1-1.1-22(e)(3) lists the possible actions that the Commission may take in deciding a Petition for Reconsideration, including upholding the original order, modifying the original order based on the existing record without further hearing, reopening the evidentiary record, or reversing the original order. The OUCC does not seek to reopen the record in this Cause or to introduce new evidence. Rather, the OUCC requested that the Commission reconsider its findings and conclusions.

The OUCC requested that the Commission reverse its findings with respect to the Commission’s approval of certain distribution system improvement charges (“DSIC”) related to water plant that was removed from Indiana-American’s distribution system but not replaced with new infrastructure. The OUCC contended that removed plant that is retired but not replaced is not “in service,” and as such, such removals are not DSIC-eligible projects. The OUCC raised this as a legal issue in its proposed order, and for purposes of our review here, we address the issue in that context.

While the OUCC is correct in its assertion that the abandoned plant is no longer in service, the Commission believes that the OUCC’s focus on the retired plant is too narrow. With respect to the retired plant at issue, viewing the undisputed facts through a wider lens reveals that the abandoned service lines were attached to distribution mains, which continue to be in service.

No evidence was presented that the removals were not prudent or do not otherwise improve the performance, integrity, or function of the distribution system. Accordingly, from the perspective of those distribution mains, the removals of abandoned service lines constitute an improvement to the distribution system that is still in service, and therefore fall within the definition of a DSIC-eligible project. While our analysis ends there based on the procedural posture of this Cause and the evidence of record, we would note that removals of abandoned plant may be challenged on other grounds in future proceedings, depending on the fact scenarios presented. *See Ind.-American Water Co.*, Cause No. 42351 DSIC 7 (IURC Dec. 27, 2012), *affirmed* (Ind. Ct. App. 2013) (finding that replacements of meters newer than ten years would not be DSIC-eligible because such meters did not constitute aging infrastructure).

Having reviewed the OUCC's Petition, the Commission denies the requested relief and upholds its May 4 Order in this Cause without modification.

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

1. The Petition filed by the OUCC is denied.
2. This Order shall be effective on and after the date of its approval.

STEPHAN, HUSTON, WEBER, AND ZIEGNER CONCUR:

APPROVED: JUL 20 2016

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



Mary M. Becerra
Secretary of the Commission