

ORIGINAL

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JLA
JLB
(Signature)

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED PETITION)
OF HAMILTON SOUTHEASTERN UTILITIES,)
INC., (1) FOR A NEW OR EXPANDED)
CERTIFICATE OF TERRITORIAL AUTHORITY)
("CTA") IN BOONE COUNTY, INDIANA; (2) FOR)
AUTHORITY TO CHARGE ITS EXISTING RATES)
AND CHARGES IN THE CTA AREA; AND (3) FOR)
ACCESS TO COUNTY RIGHTS-OF-WAY.)

CAUSE NO. 43581

APPROVED: NOV 04 2009

BY THE COMMISSION:

Jeffrey L. Golc, Commissioner
Aaron A. Schmoll, Administrative Law Judge

On October 6, 2008, Hamilton Southeastern Utilities, Inc. ("Petitioner" or "HSE") filed a verified petition with the Commission requesting (1) approval and authority for a new or expanded Certificate of Territorial Authority ("CTA") over certain rural areas in Boone County, Indiana; (2) authority to charge its existing rates and charges in areas covered by the CTA; and (3) for access to county rights-of-way.

Pursuant to notice as provided by law, proof of which was incorporated into the record, a Prehearing Conference in this Cause was held November 12, 2008, at 9:30 a.m. in Room 222 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the Office of the Utility Consumer Counselor ("OUCC") appeared and participated at the Prehearing Conference. On November 25, 2008, the Commission entered its Prehearing Conference Order establishing the procedural schedule in this Cause.

On December 12, 2008, the Town of Zionsville ("Zionsville") and Union Township of Boone County, Indiana ("Union Township") (collectively, the "Intervenors") filed their respective petitions to intervene.

Pursuant to proper legal notice, proof of which was incorporated into the record of this Cause by reference and placed in the Commission's official files, an Evidentiary Hearing in this Cause was held at 9:30 a.m. on August 20, 2009 in Room 222 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, Petitioner, Intervenors, and the OUCC appeared in person and by counsel. The City of Westfield ("Westfield") appeared at the public hearing, by counsel. Pursuant to an agreement reached by Petitioner, Intervenors, the OUCC, and Westfield, the public hearing was continued until October 6, 2009 to allow Westfield to intervene and present evidence in this proceeding. On September 9, 2009, Westfield filed its petition to intervene in this Cause. On October 2, 2009, Westfield withdrew its petition to intervene.

Pursuant to proper legal notice, proof of which was incorporated into the record of this Cause by reference, and placed in the Commission's official files, a public hearing in this Cause was held at 9:30 a.m. on October 6, 2009 in Room 222 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, the Petitioner, the OUCC, and the Intervenor presented evidence in support of the Joint Stipulation and Settlement Agreement, which had been jointly filed by the Parties on August 13, 2009. The parties' respective evidence was offered and admitted into evidence without objection.

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

1. **Petitioners' Characteristics.** Petitioner, Hamilton Southeastern Utilities, Inc., is a corporation organized under the laws of the State of Indiana, with its principal office located at 11901 Lakeside Drive, Fishers, Indiana 46038. HSE has the corporate power and authority to engage in the business of providing sanitary sewage disposal service in Indiana. HSE has been operating as a public sewage disposal utility as authorized by the Commission since 1989. HSE operates in its current service territory pursuant to certificates of territorial authority ("CTA") and indeterminate permits issued by the Commission in Cause Nos. 38685, 38819, 38897, 39567, 40501, 41528, 41745, 41752, 41798, and 43435.

2. **Notice and Commission Jurisdiction.** Proper notice of the public hearing in this Cause was given as required by law. HSE is a "public utility" within the meaning Indiana Code 8-1-2. The Commission has jurisdiction over the parties and the subject matter of this Cause.

3. **Relief Requested.** Petitioner HSE seeks Commission approval:
- a) for a new or expanded certificate of territorial authority to provide sewer service within a rural area in Boone County, Indiana ("New CTA Area") (the legal description of the New CTA Area is attached to this Order as Exhibit A);
 - b) for authority to implement the rates and charges identified in Exhibit 2 of the Joint Stipulation and Settlement Agreement (the "Settlement") in the New CTA Area;
 - c) for access to county rights-of way; and
 - d) for implementation of the terms of the Settlement.

4. **Evidence.**

(A.) *HSE.* HSE's case-in-chief was presented by Mr. Kendall W. Cochran and Mr. Otto W. Krohn. The New CTA Area consists of almost all of the unincorporated territory in Union Township, Boone County, Indiana. Pursuant to a vote by Zionsville, Eagle Township, and Union Township, these units will merge to form an expanded Zionsville on January 2, 2010. HSE was approached by Union Township and several landowners and developers with the hope that HSE would be interested in serving the New CTA Area. Therefore, HSE filed its verified petition in this Cause so that the Commission would have enough time to render a decision

before January 2, 2010, when Union Township will cease to be a rural area as defined in Ind. Code § 8-1-2-89.

HSE plans to provide treatment in the service area through its own treatment plant. HSE provided its Master Plan for the area and treatment plant plans and specifications in its case-in-chief. Mr. Cochran testified that expansion into the New CTA Area will not hinder HSE's financial ability to serve customers in its existing areas. Mr. Cochran also testified that HSE will have the technical and managerial ability to provide sewage disposal service to the New CTA Area. Finally, he testified that public convenience and necessity supports the Commission's grant of a CTA in this Cause. Mr. Cochran pointed to HSE's history of service in Hamilton County, Indiana, and added that expansion into the New CTA Area will allow sewage in the region to be collected by a utility with a history of high-quality standards and experienced personnel.

Finally, Mr. Cochran testified to HSE's proposed rates in the New CTA Area. HSE is requesting that it be allowed to charge its existing, tariffed rates and charges in the area. Mr. Cochran testified that he believes it has been the practice of the Commission to authorize the application of existing rates and charges to new areas under development by the same utility. Mr. Cochran testified that HSE's current rates were approved by the Commission in Cause No. 39191 on January 27, 1992. HSE's base rate is \$29.00 per month, with a \$4.55 tracker that was approved on March 25, 1998. HSE also has a \$2,400 system development charge it intends to charge in the New CTA Area.

(B.) *OUCC.* The OUCC presented the testimony of analysts Harold Rees, Edward Kaufman and Margaret Stull. Mr. Rees testified as to whether Petitioner's evidence meets the Indiana Code and Indiana Administrative Code requirements for a new or expanded CTA into Union Township of Boone County. Mr. Rees also noted the significant size of Petitioner's proposed territory. Mr. Kaufman discussed whether the proposed Boone County operations should be treated as an extension of the utility's existing Hamilton County operations or as a separate operation. Mr. Kaufman also discussed whether HSE's current monthly rate and System Development Charge ("SDC") should apply in its proposed service territory. Mr. Kaufman also discussed HSE's reliance on contributed capital. Margaret Stull provided testimony regarding HSE's financial ability to serve the requested CTA area and issues related to the public interest. Ms. Stull discussed HSE's ten year feasibility study and *pro forma* financial statements. Ms. Stull also discussed the application of HSE's existing rates and charges in the New CTA Area, including its proposed system development charge. Finally, Ms. Stull testified to the need for HSE to maintain separate books and records for the requested area.

5. **Windy Hill Farm Utility Corporation CTA.** A portion of the New CTA Area includes territory the Commission previously authorized Windy Hill Farm Utility Corporation ("Windy Hill") to serve through a CTA grant. In a separate agreement with HSE, Windy Hill agreed to surrender its CTA should HSE receive a CTA including that area.

6. **Requirements for Certificate of Territorial Authority.** HSE is seeking a new or expansion of its existing CTAs and indeterminate permits pursuant to Ind. Code § 8-1-2-89. The Commission must review the evidence to determine whether HSE has proven the following:

- (a) That HSE has the lawful power and authority to apply for said certificate and to operate said proposed service;
- (b) That HSE has the financial ability to install, commence and maintain said proposed service and the technical and managerial ability to operate and provide the necessary service; and
- (c) That public convenience and necessity require the rendering of the proposed service in the proposed rural area by this particular sewage disposal company.

The Commission's findings with respect to the CTA requirements are set forth below:

(A.) *Lawful Power and Authority to Apply for Certificate of Territorial Authority and to Operate.* In HSE's previous territorial cases, the Commission determined that HSE was a corporation duly organized and validly existing under the laws of the State of Indiana, was in good standing with the Office of the Secretary of State of Indiana, and was empowered by its Articles of Incorporation to perform the services for which authority was requested. HSE has also submitted a Unanimous Consent of Directors authorizing the requested expansion. Based upon the evidence of record, the Commission finds that HSE has the lawful power and authority to apply for and operate in the New CTA Area.

(B.) *Financial, Technical and Managerial Ability of HSE.* In HSE's previous territorial cases, the Commission determined that HSE had the requisite financial, technical and managerial ability to install, commence operations and maintain service in its current service territory. HSE's witness Kendall W. Cochran testified that, given its resources and experience, HSE will continue to have the financial, technical, and managerial ability to provide quality sewage disposal services to new customers in developing areas in the future. In the Settlement, the parties to this proceeding stipulate and agree that HSE has the financial, technical and managerial ability to serve the New CTA Area. Based on the evidence of record, the Commission finds that HSE possesses the financial, technical and managerial ability to install, commence and maintain service in the New CTA Area.

(C.) *Public Convenience and Necessity.* It is undisputed in the evidence of record that a sanitary sewer system is necessary for the orderly growth and development of the New CTA Area encompassed by the relief requested in these proceedings. Adding the New CTA Area to HSE's current service area will result in one sewer utility efficiently serving the entire region.

Concerning treatment for wastewater in the New CTA Area, Mr. Kendall W. Cochran testified that HSE plans to construct a wastewater treatment plant in Boone County to provide initial treatment in the area. Mr. Cochran also testified that HSE has explored other treatment options, including wholesale treatment agreements with Zionsville and the City of Westfield, Indiana. Based on its experience, HSE has decided to pursue its own treatment plant at this time. Thus, the Commission finds that Petitioner has viable treatment options available, all of which will promote the public interest in the environmentally safe treatment of wastewater.

In the Settlement, all parties to this proceeding stipulate and agree that it is in the public interest for HSE to render sewage disposal service in the New CTA Area. All sewer utilities providing service within five miles of the New CTA Area have been given notice of this proceeding and none have objected to HSE's obtaining the new CTA.

Considering the uncontroverted and substantial evidence, the Commission finds that public convenience and necessity require the issuance to HSE of an expanded CTA to render sewage disposal service in the New CTA Area.

(D.) *Description of Proposed Expanded CTA.* HSE submitted with its case-in-chief a legal description of the New CTA Area for which Petitioner seeks an expanded CTA, together with a map illustrating such territory. The Commission finds that the description submitted by HSE is adequate. As noted above, a copy of the legal description for the expanded service area is attached to this Order.

7. Initial Rates, Charges and Regulations.

(A.) *New CTA Area Rates and Charges.* Exhibit 2 of Settlement sets out the tariffed rates and charges and contribution/availability fees to be charged to customers in the New CTA Area. The tariffed rates and charges are the rates and charges HSE currently bills customers in its existing service territory including its trackers. According to the testimony of its accounting witness, Mr. Krohn, HSE's management believes that the current tariff and fees charged within its other retail service areas will be a competitive initial rate in the New CTA Area. Mr. Krohn noted that Management intends to replicate its techniques for funding main extensions and local sewers within the Expansion Area. Mr. Krohn noted Petitioner's Exhibit OWK-5 includes a 10-year projection based upon potential growth and capital cost assumptions provided by management. He noted that, while the initial cash flows may require equity infusions and/or temporary loans, it is anticipated that with rate increases and eventually growth within the service territory such will be sufficient to sustain operations under the same basic retail rate structure that HSE has in its other service territories. Mr. Krohn expressed that HSE's present tariffed retail rates and SDC and preliminary plan review fee are fair and equitable to all parties as initial rates and charges for this CTA. The parties to the Settlement stipulated that the rates, charges and contribution/availability fees as proposed in Exhibit 2 of the Settlement for the New CTA Area are fair, just and reasonable. The Commission finds that the rates, charges and contribution/availability fees identified in Exhibit 2 of the Settlement should be implemented in the New CTA Area.

(B.) *Rules and Regulations.* HSE proposed that its current Rules and Regulations be applicable to the customers located in the New CTA Area. The terms of service for customers located within the New CTA Area will be the same as those for HSE's existing customers. The Commission finds that HSE's existing Rules and Regulations should be implemented in the New CTA Area.

8. Commission Consent – Use of Public Rights-of-Way. Indiana Code § 36-2-2-23 requires the consent of the Commission prior to the grant by a Board of County Commissioners of a permit to a utility to use county property (generally roads, easements, right-

of-ways, and the like) in rendering utility service. For the purposes of clarification, the finding by the Commission herein that the public convenience and necessity require the issuance of a CTA to HSE for the New CTA Area constitutes the consent of the Commission to the Board of Commissioners of Boone County issuing to HSE a license, permit or franchise for the use of county property in rendering sewage disposal service in accordance with applicable Indiana law.

9. **Approval of Joint Stipulation and Settlement Agreement.** In the Settlement, the parties to this proceeding agreed that the terms and conditions of their agreement represent a fair, reasonable and just resolution of all issues raised in this Cause. After reviewing the terms of the Settlement, we find that the parties' agreement is reasonable, serves the public interest, and is a desirable and lawful resolution of the issues presented in this Cause. Therefore, we find the Joint Stipulation and Settlement Agreement should be approved in accordance with its terms. The Settlement also contains several conditions that the parties agree should be made part of the Commission's grant of a CTA to serve the New CTA Area. Those conditions address issues that would apply in the event of HSE's inability to satisfy a request for service, and to a combined tariff for all of HSE's service territories.

With regard to future citation of the Settlement Agreement, we find the Settlement Agreement and our approval of it should be treated in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434 (Mar. 19, 1997) and the terms of the Settlement Agreement regarding its non-precedential effect. The Settlement Agreement shall not constitute an admission or a waiver of any position that any of the parties may take with respect to any or all of the items and issues resolved therein in any future regulatory or other proceedings, except to the extent necessary to enforce its terms.

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

1. The Joint Stipulation and Settlement, attached to this Order, is hereby approved.
2. Petitioner, HSE, is granted authority to render sewage disposal service in the expanded territory of Boone County, Indiana that is described in the legal description attached hereto and made a part hereof. This Order shall be the sole evidence of the expanded CTA.
3. The Commission approves the surrender of the CTA granted to Windy Hill Farm Utility Corporation in Cause No. 40370 upon Zionsville and Union Township's confirmation that HSE is the provider of service in the New CTA Area or January 1, 2011, whichever first occurs, and HSE is hereby granted authority to render sewage disposal service in the area formerly occupied by such CTA.
4. The Commission authorizes HSE to charge customers in the New CTA Area the rates, charges and fees identified in Exhibit 2 of the Joint Stipulation and Settlement Agreement and in accordance with finding paragraph 7.A. contained in this Order. Prior to placing the new rates and charges into effect, HSE shall file new schedules of rates and charges with the Water/Sewer Division of the Commission.

5. The Commission authorizes HSE to extend implementation of its existing Rules and Regulations to the expanded areas described in finding paragraph 7.B. set out in this Order.

6. The Commission consents to the issuance by the Boone County Board of Commissioners of permission to Petitioner to use county property in the New CTA Area in accordance with Ind. Code § 36-2-2-23.

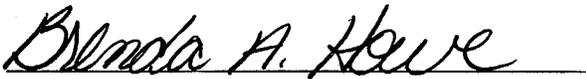
7. This Order shall be effective on and after the date of its approval.

ATTERHOLT, GOLC, LANDIS, AND ZIEGNER CONCUR; HARDY ABSENT:

APPROVED:

NOV 04 2009

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



**Brenda A. Howe
Secretary to the Commission**

COPY

STATE OF INDIANA

FILED

INDIANA UTILITY REGULATORY COMMISSION AUG 13 2009

INDIANA UTILITY
REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED PETITION)
OF HAMILTON SOUTHEASTERN UTILITIES,)
INC., (1) FOR A NEW OR EXPANDED)
CERTIFICATE OF TERRITORIAL AUTHORITY)
("CTA") IN BOONE COUNTY, INDIANA; (2) FOR)
AUTHORITY TO CHARGE ITS EXISTING)
RATES AND CHARGES IN THE CTA AREA; AND)
(3) FOR ACCESS TO COUNTY RIGHTS-OF-WAY.)

CAUSE NO. 43581

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Hamilton Southeastern Utilities, Inc. ("HSE"), a corporation duly organized under the laws of the State of Indiana; the Town of Zionsville, Indiana ("Zionsville"); Union Township, Indiana ("Union Township"); and the Office of the Utility Consumer Counselor ("OUCC") (herein sometimes collectively referred to as the "Parties"), stipulate and agree for purposes of resolving the issues in this Cause to the terms and conditions set forth below (which terms and conditions and the exhibits attached hereto are collectively referred to as the "Settlement"). HSE has petitioned the Indiana Utility Regulatory Commission (the "Commission") for a Certificate of Territorial Authority ("CTA") to render sewage disposal service in a rural area of Union Township, Boone County, Indiana and other related relief. Both Zionsville and Union Township intervened in this Cause. Neither Zionsville nor Union Township currently serves the area. The Parties agree as follows:

1. Commission Approval of Issuance of New CTA. The Parties agree that HSE should be granted the CTA by the Commission in Cause No. 43581. The Parties stipulate and agree that with respect to the CTA: (1) HSE has the lawful power and

authority to apply for the CTA and the requisite managerial and technical expertise to manage, operate and provide the sewage disposal service in the area covered by the CTA; (2) HSE has the financial ability to install, commence and maintain the sewage disposal service; and (3) public convenience and necessity require the rendering of the sewage disposal service by HSE in the CTA.

2. Public Convenience and Necessity. No private or public utility is authorized to receive effluent from the CTA area, which area is rural in character as defined in I.C. 8-1-2-89. Due to the fact that there is no sewer service currently available in the new CTA, there has been only limited development activity in the area. Developers who own or control property in the CTA have expressed a desire to develop in the area. The Parties stipulate and agree that there is a need for sewage service in the CTA and that HSE is capable of providing such sewage disposal service. HSE intends to provide such service by building a collection system and providing for treatment of the effluent through a wastewater treatment plant.

3. CTA Area. The CTA area shall be the area that was identified in HSE's Testimony. A legal description of the area has been attached to the Settlement as Exhibit 1.

4. Revocation of CTA. After January 1, 2014, if HSE receives a request for service from a bona fide applicant within the requested CTA area that HSE cannot accommodate within six months and without inordinate cost to the applicant and there is another provider of service that can otherwise provide the service without the inordinate cost and within the six month time period, then HSE shall notify the Commission of the fact and the CTA authority to serve the area where the landowner is located may be

revoked by the IURC upon the written request of the landowner. Before revocation, HSE, however, shall have an opportunity to demonstrate to the Commission in a noticed public hearing that such a revocation is not appropriate. HSE shall provide written notice of the contents of this paragraph to any landowner within the expanded CTA area requesting service that HSE cannot accommodate.

Additionally, as part of the Settlement in this Cause, Union Township, Zionsville and HSE have entered into an Agreement whereby Zionsville, after the effective date of the reorganization of the Town of Zionsville, shall have an option ("Option") to direct whether HSE may retain or require withdrawal of its CTA, if it is successful in obtaining a CTA, to serve the area identified in this Cause. Zionsville may exercise the Option until December 31, 2010 with written notice provided to HSE prior to January 1, 2011. HSE agrees to notify the OUCC and the Commission of the action taken by Zionsville with regard to the exercise of its Option.

The Parties agree that nothing in this provision is intended to diminish or expand the ability of Zionsville to regulate, authorize or disallow the provision of sewer service by providers of sewage disposal in the territory. The Parties agree that nothing in this provision is intended to eliminate any legal requirements of providers of sewage disposal service in the CTA area.

In the event of a written request from an applicant, HSE retains all rights, arguments and defenses with respect to whether it should be permitted by the Commission to retain the applicant's area as part of its certificated territory.

5. Rates and Charges. As part of the Settlement, the Parties hereto also wish to stipulate and agree to the rates and charges that will govern the CTA to be issued to

HSE as part of this Settlement. Therefore, the Parties hereto stipulate and agree that HSE's schedule of fees and charges set forth in the proposed tariff as Exhibit 2 are reasonable and should be approved by the Commission as its initial rates and charges.¹

6. System Development Charge. The Parties agree that HSE will be authorized to charge a system development charge ("SDC") of \$2,400 as reflected in the proposed tariff as shown in Exhibit 2. HSE acknowledges that its \$2,400 system development charge is based on good-faith estimates. The OUCC is not precluded from asking the Commission to review HSE's SDC in the new CTA area at any time by filing a petition with the IURC, as long as it is after Zionsville and Union Township confirms that HSE is the provider of service in the new CTA area or January 1, 2011, whichever first occurs.

7. Change in Rates and Charges. HSE agrees that it will not seek to increase or change the rates and charges in the new CTA area in the rate case to be filed on or prior to August 11, 2009, pursuant to the final order in Cause No. 43435.

8. Tariffs. The OUCC agrees that HSE is not precluded by this agreement from asking the Commission to allow its Hamilton County operations and its Boone County operations to impose rates under a single tariff with a common rate structure. However, HSE agrees it will not petition for such a determination before a final order is issued in the rate case it will file pursuant to the final order in Cause No. 43435.

9. Future Rate Case. HSE agrees that after eight years from the Final Order in this Cause, or at such time as HSE begins serving at least 1,000 EDUs in the new CTA area, whichever occurs first, that HSE will file a rate case for its new CTA area if requested by the OUCC.

¹ Zionsville and Union Township in their testimony take no position on HSE's initial rates and charges.

10. Legal Description of Wastewater Treatment Plant Site. HSE agrees to notify and provide a legal description to the Commission and OUCC when a final location for its wastewater treatment plant is chosen.

11. Permits. When developing its system in the new CTA area, HSE agrees to file all DNR permits with the IURC and copy the OUCC.

12. Collection System Plans. HSE agrees to file detailed sewer plans for its collection system as they are designed and constructed. The Parties agree that the filing of these plans is premature at this time. At such time as developers begin development in the new CTA area, HSE agrees to file with the Commission and the OUCC the detailed layout for these areas.

13. Separate Books and Records. HSE agrees to keep separate books and records for the new CTA area.

14. Positive Equity. HSE agrees to maintain positive equity throughout HSE's overall combined operations.

15. Stipulation and Settlement Agreement. The Parties hereby stipulate and agree that the terms of this Settlement, and the findings and ordering paragraphs of the Proposed Final Order, constitute a fair, just and reasonable resolution of all of the issues in this Cause, provided the Settlement and provisions thereof are approved by the Commission in their entirety without material change. Furthermore, the Parties hereby stipulate and agree that it is in the public interest for the Commission to approve the CTA. A copy of the Proposed Final Order is attached as Exhibit 3.

16. Testimony and Exhibits. In support of the Settlement, the Parties stipulate to the admission into evidence in this Cause, the Prepared Direct Testimony and Exhibits

of HSE filed with the Commission on December 15, 2008; the Prepared Direct Testimony and Exhibits of the OUCC filed with the Commission on May 6, 2009; the Prepared Direct Testimony of Zionsville and Union Township prefiled with the Commission on May 6, 2009; and the Rebuttal Testimony and Exhibits of HSE filed with the Commission on June 3, 2009. The Parties shall file testimony in support of this Settlement and the terms thereof, including the Agreement between HSE, Zionsville and Union Township with regard to the new CTA, with the Commission on or before August 12, 2009, and such shall not be opposed by the Parties hereto.

17. Evidentiary Basis. The Parties stipulate and agree that the evidentiary material identified above constitute a sufficient evidentiary basis for the issuance of the Proposed Order by the Commission in accordance with the terms of the Settlement.

18. Commission Approval. The concurrence of the Parties with the terms of the Settlement is expressly predicated upon the Commission's approval of the Settlement. If the Commission alters the Settlement in any material way, unless that alteration is unanimously consented to by the Parties, in writing, the Settlement shall be deemed withdrawn. The Parties stipulate that the agreed provisions with respect to the precedential effect of the Settlement and Order are material to the Settlement.

19. Authorization. The undersigned have represented and agreed that they are fully authorized to execute this Settlement on behalf of the designated clients who will be bound thereby.

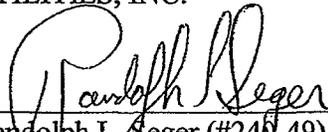
20. Precedential Status. The Settlement is a result of compromise derived from unusual and specific facts and representations particular to this Cause. The Parties stipulate that this Settlement should not be construed nor be cited as precedent or deemed

an admission by any party in any proceeding except as necessary to enforce its terms before the Commission or any court of competent jurisdiction on these particular issues. This Settlement is solely the result of compromise in the settlement process and, unless otherwise provided herein, is without prejudice to and shall not constitute a waiver of any position that the Parties may take with respect to any or all of the items resolved herein in any future regulatory or other proceeding and shall not be admissible in any subsequent proceeding without regard to whether it has been approved by the Commission. The Parties agree that, other than to enforce the terms of this Settlement, no Party may offer this Settlement or any terms of this Settlement or testimony in support of this Settlement against another party to this proceeding in any subsequent proceeding; and the Parties agree that any such effort is objectionable and constitutes a satisfactory basis for sustaining the objection or motion to strike.

ACCEPTED AND AGREED TO THIS 12th DAY OF August, 2009.

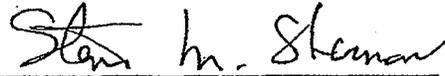
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UNION TOWNSHIP, INDIANA



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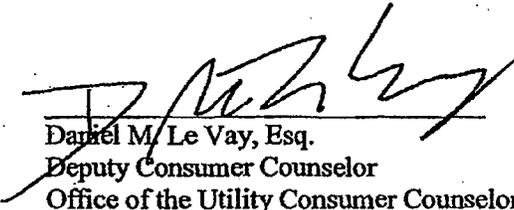
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COUNSELOR

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UNION TOWNSHIP, INDIANA**

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COUNSELOR**



**Daniel M. Le Vay, Esq.
Deputy Consumer Counselor
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National City Center
115 West Washington Street
Suite 1500 South
Indianapolis, Indiana 46204**

1408383

Legal Description of Union Township GTA

All of Section 25, Township 19 North, Range 2 East, in Boone County, Indiana.
 All of Section 26, Township 19 North, Range 2 East, in Boone County, Indiana.
 All of Section 27, Township 19 North, Range 2 East, in Boone County, Indiana.
 All of Section 28, Township 19 North, Range 2 East, in Boone County, Indiana.
 All of Section 29, Township 19 North, Range 2 East, in Boone County, Indiana.
 All of Section 30, Township 19 North, Range 2 East, in Boone County, Indiana.
 All of Section 31, Township 19 North, Range 2 East, in Boone County, Indiana.
 All of Section 32, Township 19 North, Range 2 East, in Boone County, Indiana.
 All of Section 33, Township 19 North, Range 2 East, in Boone County, Indiana.
 All of Section 34, Township 19 North, Range 2 East, in Boone County, Indiana.
 All of Section 35, Township 19 North, Range 2 East, in Boone County, Indiana.
 All of Section 36, Township 19 North, Range 2 East, in Boone County, Indiana.
 All of Section 1, Township 18 North, Range 2 East, in Boone County, Indiana.
 All of Section 2, Township 18 North, Range 2 East, in Boone County, Indiana.
 All of Section 3, Township 18 North, Range 2 East, in Boone County, Indiana.
 All of Section 4, Township 18 North, Range 2 East, in Boone County, Indiana.
 All of Section 5, Township 18 North, Range 2 East, in Boone County, Indiana.
 All of Section 9, Township 18 North, Range 2 East, in Boone County, Indiana.
 All of Section 10, Township 18 North, Range 2 East, in Boone County, Indiana.
 All of Section 11, Township 18 North, Range 2 East, in Boone County, Indiana.
 All of Section 12, Township 18 North, Range 2 East, in Boone County, Indiana.
 All of Section 15, Township 18 North, Range 2 East, in Boone County, Indiana.
 All of Section 18, Township 18 North, Range 2 East, in Boone County, Indiana.

All of Section 13, Township 18 North, Range 2 East, in Hamilton County, Indiana, except the part described as follows:

The Southwest Quarter of Section 13, Township 18 North, Range 2 East and the West Half of the Southeast Quarter of Section 13, Township 18 North, Range 2 East

All of Section 14, Township 18 North, Range 2 East, in Hamilton County, Indiana, except the part described as follows:

Commencing at the Southeast corner of said quarter section; thence South 88 degrees 51 minutes 25 seconds West (base of bearing from recorded plat of Countrywood Section 1) along the South line of said quarter section 549.77 feet to a P.K. nail at the Point of Beginning; thence continue along the South line of said Quarter Section 748.61 feet to a point in the centerline of U.S. 421; thence North 20 degrees 34 minutes 28 seconds West, along said centerline 583.20 feet to the Southwest corner of Countrywood Section One, plat of which is recorded in Plat Book 6, page 1, in the Office of the Recorder of Boone County, Indiana; thence North 88 degrees 59 minutes 33 seconds East along said South subdivision line, 825.97 feet to a 5/8 inch rebar with cap; thence South 00 degrees 18 minutes 42 seconds East parallel with the East line of said Quarter Section 623.18 feet to the point of beginning and containing 12.377 acres, more or less.

And except the part described as follows:

Begin at a stone at the Northeast corner of the aforesaid Northeast Quarter and proceed thence South 00 degrees 01 minutes 18 seconds East (an assumed bearing) along the Section line, for a distance of 1982.20 feet; thence South 89 degrees 27 minutes 47 seconds West for a distance of 697.93 feet; thence North 9 degrees 45 minutes 39 seconds East for a distance of 244.18 feet; thence North 89 degrees 16 minutes 46 seconds West for a distance of 683.49 feet; thence North 0 degrees 06 minutes 52 seconds East for a distance of 1626.67 feet; thence North 89 degrees 05 minutes 44 seconds East, along the Section line, for a distance of 1342.82 feet to the point of beginning, containing 55.8388 acres, more or less.

This land description was prepared and is based exclusively upon record deed information and/or prior surveys of the subject premises or its parent. For purposes of the preparation of this description, no survey of the described real estate was performed and no monuments were set.