

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

*Handwritten initials: JDA, JLG*

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JOINT PETITION OF INDIANA- )  
 AMERICAN WATER COMPANY, INC. )  
 ("INDIANA-AMERICAN") AND THE )  
 TOWN OF WAVELAND, INDIANA )  
 ("WAVELAND") FOR THE APPROVAL )  
 AND AUTHORIZATION OF: (A) THE )  
 ACQUISITION BY INDIANA-AMERICAN )  
 OF WAVELAND'S UTILITY PROPERTIES )  
 ("THE WAVELAND SYSTEM") IN )  
 MONTGOMERY COUNTY, INDIANA )  
 ("THE WAVELAND AREA") IN )  
 ACCORDANCE WITH A PURCHASE )  
 AGREEMENT THEREFORE; (B) )  
 APPROVAL OF ACCOUNTING AND RATE )  
 BASE TREATMENT; (C) APPLICATION )  
 OF INDIANA-AMERICAN'S RATES AND )  
 CHARGES FOR PETITIONER'S )  
 CRAWFORDSVILLE OPERATION TO )  
 WATER SERVICE RENDERED BY )  
 INDIANA-AMERICAN IN THE AREA )  
 SERVED BY THE WAVELAND SYSTEM; )  
 (D) ALL NECESSARY LICENSES, )  
 PERMITS, AND FRANCHISES FOR )  
 INDIANA-AMERICAN TO PROVIDE )  
 WATER SERVICE IN THE WAVELAND )  
 AREA; (E) APPLICATION OF INDIANA- )  
 AMERICAN'S DEPRECIATION ACCRUAL )  
 RATES TO SUCH ACQUIRED )  
 PROPERTIES; AND (F) THE SUBJECTION )  
 OF THE ACQUIRED PROPERTIES TO THE )  
 LIEN OF INDIANA-AMERICAN'S )  
 MORTGAGE INDENTURE. )

CAUSE NO. 43671

APPROVED: SEP 23 2009

**BY THE COMMISSION:**

**Jeffrey L. Golc, Commissioner**  
**David E. Veleta, Administrative Law Judge**

On April 22, 2009, Joint Petitioners, Indiana-American Water Company, Inc. ("Indiana-American") and the Town of Waveland, Indiana ("Waveland") filed their joint petition with the Indiana Utility Regulatory Commission ("Commission") in this matter. On April 23, 2009, Joint Petitioners filed their prepared testimony and exhibits constituting their case-in-chief. On July 24, 2009, Joint Petitioners filed their Joint Stipulation and Settlement Agreement ("Settlement

Agreement”). On July 24, 2009, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed the settlement testimony of Margaret A. Stull, Utility Analyst.

Pursuant to notice of hearing duly given and published as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, an evidentiary hearing in this Cause was held at 1:00 p.m. on August 17, 2009 in Room 224, National City Center, 101 W. Washington Street, Indianapolis, Indiana. Joint Petitioners and the OUCC appeared and participated in the evidentiary hearing. No members of the general public appeared.

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

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

2. **Joint Petitioners’ Characteristics.** Indiana-American 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. Indiana-American also provides sewer utility service in Wabash and Delaware Counties.

Waveland is a municipality located in Montgomery County, Indiana. Waveland owns and operates a water utility plant and distribution system serving approximately 213 individually metered customers. The Waveland System is near Indiana-American’s existing Crawfordsville Operation.

3. **Relief Requested.** Joint Petitioners request that the Commission (1) grant such approvals as may be necessary to consummate the acquisition of the Waveland System (as defined in the Joint Petition) by Indiana-American and permit the operation thereof by Indiana-American on the terms described in the Asset Purchase Agreement, including all necessary licenses, permits and franchises to provide utility service through the Waveland System following closing; (2) find that public convenience and necessity require water service by Indiana-American in the areas now served by Waveland; (3) authorize Indiana-American to charge customers currently served by the Waveland System the current rates and charges and apply the same rules and regulations for water service and private and public fire service applicable in Indiana-American’s Crawfordsville Operations on file with and approved by the Commission, as the same are in effect from time to time; (4) approve the accounting entries as described in the direct testimony of Michael J. Hoffman to reflect the acquisition of the Waveland System; (5) authorize Indiana-American to apply its depreciation accrual rates approved by the Commission in Cause No. 43081 after the closing; and (6) approve the encumbering of the properties comprising the Waveland System with the lien of Indiana-American’s mortgage indenture.

4. **Settlement Agreement.** The Settlement Agreement indicates that it presents a comprehensive resolution of all matters pending before the Commission in this Cause which all Parties agree is fair, just and reasonable. More specifically, the Settlement Agreement provides that Indiana-American shall be authorized to consummate the acquisition of the Waveland System and permit the operation thereof by Indiana-American on the terms described in the Asset Purchase Agreement, including all necessary licenses, permits and franchises to provide utility service through the Waveland System following closing and Indiana-American shall be authorized to: (1) charge customers currently served by the Waveland System the current rates and charges and apply the same rules and regulations for water service and private and public fire service applicable in Indiana-American's Crawfordsville Operation on file with and approved by the Commission, as the same are in effect from time to time; (2) record the net original cost of the Waveland System equal to the purchase price of \$680,000, plus transaction costs (estimated to be \$25,000, to be adjusted for actual costs), by recording the journal entry set forth in Petitioners' Exhibit MJH-2; (3) following the closing, apply its depreciation accrual rates approved by the Commission in Cause No. 43081; and (4) encumber the properties comprising the Waveland System with the lien of Indiana-American's mortgage indenture.

The Parties have further stipulated and agreed that the following conditions shall apply to the authority granted by the Settlement Agreement:

a. **Notice to Waveland Customers.** Indiana-American shall provide notice to current Waveland customers of Indiana-American's rate case currently pending before the Commission in Cause No. 43680. The notice shall be in substantially the same form as that given to Indiana-American's customers and shall be provided prior to the field hearings to be held in connection with the rate case.<sup>1</sup>

b. **Waveland Customer Deposits.** Within three (3) months of closing, Waveland shall refund to the customers the approximately \$8,500 of deposit amounts remaining in its customer deposit fund (either through refunds, bill credits or a combination thereof). Any outstanding balances/arrearage amounts may be deducted from a particular customer's refund amount, if applicable. At the end of the 3-month period, Waveland shall submit a report to the OUCC listing for each depositor (1) the name of the depositor, (2) the amount of deposit held, (3) any bill credit made to the depositor, (4) the amount of any refund payment other than a bill credit, and (5) the amount of deposit remaining in the depositor's account.

c. **Post-Closing Report.** Indiana-American will provide to the OUCC a report, for informational purposes only, within 24 months following the closing of the acquisition (the "Transfer Date") containing the following information:

1. **Customer Complaints:** A summary of complaints submitted by customers of the Waveland System to the Commission from the Transfer Date through the first 15 months of Indiana-American owning and operating the Waveland System.

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<sup>1</sup> On September 15, 2009, the Commission held its first field hearing in connection with Cause No. 43680. The Commission is in the process of scheduling additional field hearings to be held in connection with the above cause.

2. Summary of Post-Closing Operations: A summary of information reasonably available to Indiana-American regarding operation of and activities at the Waveland System since the Transfer Date. Items to be described in the summary include: i. any efficiencies achieved as a result of the transfer of the Waveland System to Indiana-American; ii. a status report of significant activities and any improvements to the Waveland System commenced since the Transfer Date; and iii. a brief description of proposed improvements to the Waveland System included in Indiana-American's capital plan that have not yet commenced.

The Settlement Agreement includes a stipulation by the parties that states that Indiana-American is not liable for actual results that differ materially from those indicated by the statements made in the post-closing report. In addition, the parties further stipulated and agreed that Indiana-American shall not be required to update or revise its report based on the occurrence of future events, the receipt of new information or otherwise. In performing its obligations under the stipulation, Indiana-American is required only to submit information to the extent it is reasonably available to Indiana-American and no obligation to conduct additional investigations, evaluations or studies beyond what is conducted in its ordinary course of operations will be imposed on Indiana-American under the Settlement Agreement.

**5. Evidence in Support of the Settlement Agreement.**

a. Joint Petitioners' Evidence in Support of Settlement Agreement. Michael J. Hoffman, Finance Manager for American Water Works Service Company, a sister company to Indiana-American, testified on behalf of Joint Petitioners. Mr. Hoffman testified regarding the accounting and ratemaking treatment proposed by Indiana-American in connection with its acquisition of the Waveland System. According to Mr. Hoffman, Petitioners' Exhibit MJH-2 sets forth the proposed journal entry, which shows a recorded net original cost of the Waveland System assets as the purchase price plus transaction costs. Mr. Hoffman testified that this accounting treatment is appropriate because of the unique nature of the acquisition of government-owned utilities. Mr. Hoffman further testified that in such a case, the seller represents the interests of a group of citizens or utility consumers and thus the benefits of the transaction inure to the group being represented. Mr. Hoffman noted that the proposed journal entry is consistent with the Commission's Order dated April 4, 2001 in Cause No. 41655 which approved Indiana-American's acquisition of the system owned by the City of Seymour.

Mr. Hoffman testified that the accounting entries proposed by Indiana-American, consistent with Commission policy, would record the original cost of the Waveland System as a debit to Account 101-Utility Plant in Service and record all associated accumulated depreciation as a credit to Account 108 - Accumulated Depreciation. Mr. Hoffman testified that the net original cost of the Waveland System would be the gross cost of the facilities, including adjustments for closing and transaction costs (i.e., the \$680,000 purchase price plus an estimated \$25,000 in transaction costs, to be adjusted for actual costs). Mr. Hoffman further testified that the depreciation accrual rates to be applied to the Waveland System assets would be the rates approved by the Commission in Cause No. 43081 on November 21, 2006.

Mr. Henson testified that the proposed price for the acquisition of the Waveland System is reasonable and a result of arm's length negotiations between Indiana-American and Waveland, primarily because of the detailed statutory procedure a municipality must follow in order to sell a

municipally-owned utility. Mr. Henson further testified that the price is within the appraised value determined by independent appraisers hired by Waveland. Mr. Henson also noted there was another bidder for the Waveland System, and Waveland accepted the highest proposal.

Mr. Henson and Deron E. Allen, Indiana-American's Director of Operations in charge of the Western Indiana Districts, testified that the customers of Waveland's system and Indiana-American's existing customers will benefit from the acquisition. Mr. Henson further explained that Waveland customers will benefit from many programs that Indiana-American uses to ensure customer satisfaction, such as routine valve operating programs, hydrant flushing and inspection, meter replacement, and plant security. Mr. Henson testified that most Waveland customers will experience a decrease in their monthly water bill as a result of the acquisition. Mr. Hoffman further testified that the average residential customer's monthly bill would decrease from \$41.29 to \$36.13, based on usage of 6,000 gallons.

Mr. Hoffman testified regarding Indiana-American's intention to apply the tariff rates, rules and regulations on file and applicable to Indiana-American's Crawfordsville Operation to the customers of the Waveland System. Mr. Hoffman testified that utilizing Indiana-American's existing Crawfordsville rates is consistent with the objective of eventually having single tariff pricing for Indiana-American's operations throughout the entire state of Indiana.

Mr. Hoffman testified regarding the encumbrance that would be placed on the Waveland System assets as a result of the acquisition under Indiana-American's General Mortgage, which secures most of Indiana-American's utility property for the benefit of Indiana-American's bond holders. Mr. Hoffman testified that Indiana-American has access to all of the necessary funds to support the acquisition.

b. OUCC Evidence in Support of Settlement Agreement. Margaret Stull, an accountant in the OUCC's water/wastewater division testified on behalf of the OUCC. Mrs. Stull testified that Indiana-American should be authorized to acquire the Town of Waveland's water utility assets provided certain conditions are imposed. Ms. Stull testified that Indiana American's acquisition of the Waveland water utility assets will provide Waveland's customers with full-time utility operations and future replacement of infrastructure at more affordable rates than could be accomplished if Waveland pursued these improvements on its own.

## **6. Commission Discussion and Findings regarding the Settlement Agreement.**

a. Settlement Agreement. Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406.

Furthermore, any Commission decision, ruling, or order - including the approval of a settlement - must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330,331 (Ind. 1991)). The Commission's own procedural rules require that settlements be

supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Indiana Code § 8-1-2, and that such agreement serves the public interest.

The Commission finds that, as further discussed below, the Settlement Agreement is reasonable and in the public interest and the authority and obligations proposed therein should be approved. A copy of the Settlement Agreement is attached to this Order as Attachment 1 and incorporated herein by reference. In addition to the requirements of the Settlement Agreement, Indiana-American shall provide to the Commission a report, within 24 months following the closing of the acquisition containing the status of significant activities and any improvements to the Waveland System commenced since the Transfer Date and a brief description of proposed improvements to the Waveland System included in Indiana-American's capital plan that have not yet commenced. With regard to future citation of this Order, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434 (IURC Mar. 19, 1997).

b. Public Convenience and Necessity. The evidence demonstrates that the Waveland System can be easily integrated into Indiana-American's existing system. The public now served by the Waveland System will benefit from Indiana-American's financing capability, management and technical expertise. As a result of this acquisition, certain necessary capital improvements will be made and at less cost to customers of the Waveland System than if the system was to remain under Waveland's ownership. Waveland customers and Indiana-American customers will benefit from the increased number of customers over which fixed costs will be spread. Finally, Waveland customers will gain access to many programs that Indiana-American uses to ensure customer satisfaction. Based on the evidence of record, the Commission finds that the acquisition and operation of the Waveland System by Indiana-American on the terms described in the Asset Purchase Agreement is supported by public convenience and necessity and is in the public interest. Furthermore, following the closing, Indiana-American shall be authorized to serve in the areas currently served by the Waveland System.

c. Rates and Rules. Indiana-American currently has on file with the Commission a schedule of rates and charges and rules and regulations applicable to water utility service provided by Indiana-American in the Crawfordsville Operation. Consistent with the Asset Purchase Agreement, we find that, on and after the closing, Indiana-American's generally applicable rates and charges and rules and regulations for water service and private and public fire service applicable in Indiana-American's Crawfordsville Operation on file with and approved by the Commission should apply to services provided by Indiana-American through the Waveland System, as the same are in effect from time to time.

d. Accounting Treatment. Indiana Code §§8-1-2-12 and -14 give the Commission authority over the accounting procedures utilized by public utilities in Indiana. There is a statutory procedure for the sale of a municipally owned utility, which requires an independent appraisal of the "just and true valuation" and imposes that price as a minimum sales price. Further, this statutory process should assure a reasonable purchase price and an arm's length transaction. In this Cause, it is appropriate to recognize the state statute and allow Indiana-

American to book as net original cost the purchase price plus reasonable transaction costs. Although Indiana-American is paying slightly more than the minimum appraised value, both the purchase price and that appraised value are significantly less than the estimated net original cost determined by the appraisers. Accordingly, there should be no risk that the purchase price will be too high for the assets being acquired.

The Commission finds that Indiana-American's proposed accounting and journal entries as described by Mr. Hoffman in his direct testimony and Petitioners' Exhibit MJH-2 and set forth in Finding No. 6 above, should be approved and that the costs so reflected on the books and records of Indiana-American be used as the original cost of such properties for accounting, depreciation, and rate base valuation purposes. We find that Indiana-American's existing depreciation accrual rates approved by the Commission in Cause No. 43081 on November 21, 2006 should be applied on and after the closing date of the acquisition to depreciable property purchased from Waveland pursuant to the Asset Purchase Agreement.

e. Encumbrance. The properties owned by Indiana-American are subject to the lien of Indiana-American's Indenture of Mortgage. Upon consummation of the acquisition, the properties comprising the Waveland System will also become subject to the lien of Indiana-American's Indenture of Mortgage.

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

1. The Settlement Agreement shall be and hereby is approved in its entirety.
2. Public convenience and necessity require the acquisition and operation of the Waveland System by Indiana-American on the terms and conditions described in the Asset Purchase Agreement, and Indiana-American shall be and hereby is granted an indeterminate permit to provide water service in the area currently served by the Waveland System effective upon consummation of the acquisition by Indiana-American of the Waveland System.
3. Indiana-American is hereby authorized to consummate the acquisition of the Waveland System and permit the operation thereof by Indiana-American on the terms described in the Asset Purchase Agreement, including all necessary licenses, permits and franchises to provide utility service through the Waveland System following closing.
4. Indiana-American is hereby authorized to charge customers currently served by the Waveland System the current rates and charges and apply the same rules and regulations for water service and private and public fire service applicable in Indiana-American's Crawfordsville Operation on file with and approved by the Commission, as the same are in effect from time to time.
5. Indiana-American is hereby authorized to reflect the acquisition of the Waveland System on its books and records as of the closing by making the accounting and journal entries described in Finding No. 6(d) above.

6. The original cost of the acquired property, as described in Finding No. 6(d) above, shall be used for accounting, depreciation and rate base valuation purposes after closing.

7. Indiana-American shall be and hereby is authorized to apply its depreciation accrual rates on and after the closing date of the acquisition to depreciable property purchased from Waveland pursuant to the Asset Purchase Agreement.

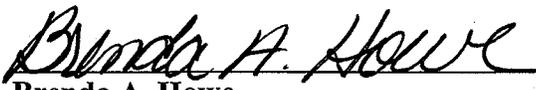
8. Indiana-American is hereby authorized to encumber the properties comprising the Waveland System with the lien of Indiana-American's mortgage indenture.

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

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

**APPROVED: SEP 23 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**

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

JOINT PETITION OF INDIANA-AMERICAN )  
WATER COMPANY, INC. ("INDIANA- )  
AMERICAN") AND THE TOWN OF )  
WAVELAND, INDIANA ("WAVELAND") FOR )  
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(THE "WAVELAND SYSTEM") IN )  
MONTGOMERY COUNTY, INDIANA ("THE )  
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INDIANA-AMERICAN'S MORTGAGE )  
INDENTURE. )

CAUSE NO. 43671

**JOINT STIPULATION AND SETTLEMENT AGREEMENT AMONG  
INDIANA-AMERICAN WATER COMPANY, INC.,  
THE TOWN OF WAVELAND, INDIANA  
AND THE OFFICE OF UTILITY CONSUMER COUNSELOR**

On April 22, 2009, Joint Petitioners, Indiana-American Water Company, Inc. ("Indiana-American") and the Town of Waveland ("Waveland"), filed their joint petition with the Indiana Utility Regulatory Commission ("Commission") in this Cause. Prior to the final public hearing

in this Cause, Petitioners and the Office of Utility Consumer Counselor (“OUCC”, and together with Petitioners, the “Parties”) communicated with each other regarding settlement of this Cause and have reached an agreement with respect to all the issues before the Commission. Petitioners and the OUCC stipulate and agree to the following matters:

1. Proposed Order. The Parties stipulate and agree to the issuance by the Commission of a final order in the form attached hereto as Attachment 1 (the “Proposed Order”). Each description of an agreement by the Parties contained in the Proposed Order is incorporated herein by reference and is accepted by each of the Parties as if fully set forth herein. Solely for purposes of settlement, the Parties stipulate and agree that the terms, findings, and ordering paragraphs of the Proposed Order constitute a fair, just and reasonable resolution of the issues raised in this Cause provided they are approved by the Commission in their entirety and without modification.

2. Acquisition of Waveland System. The OUCC and Petitioners stipulate and agree that, subject to the conditions stated herein and approval by the Commission, Petitioners shall be authorized to consummate the acquisition of the Waveland System (as defined in the Joint Petition) by Indiana-American and Indiana-American shall be permitted to operate the Waveland System on the terms described in the Asset Purchase Agreement, including all necessary licenses, permits and franchises to provide utility service through the Waveland System following closing.

3. Application of Rates, Charges Rules and Regulations. The OUCC and Petitioners stipulate and agree that, subject to Commission approval, Indiana-American shall be authorized to apply the same rates and charges, rules and regulations to customers currently served by the Waveland System as are applicable to Indiana-American’s existing general water service and

private and public fire service customers in the Crawfordsville Operation on file with and approved by the Commission, as the same are in effect from time to time.

4. Accounting Treatment. The OUCC and Petitioners stipulate and agree that, subject to Commission approval, Indiana-American shall be authorized to (a) record the net original cost of the Waveland System equal to the purchase price of \$680,000, plus transaction costs (estimated to be \$25,000, to be adjusted for actual costs), by recording the journal entry set forth in Petitioners' Exhibit MJH-2; and (b) following the closing, apply its depreciation accrual rates approved by the Commission in Cause No. 43081.

5. Encumbrance of Property. The OUCC and Petitioners stipulate and agree that, subject to Commission approval, Indiana-American shall be authorized to encumber the properties comprising the Waveland System with the lien of Indiana-American's Mortgage Indenture dated as of May 1, 1968, as supplement and amended.

6. Notice to Waveland Customers. The OUCC and Petitioners stipulate and agree that Petitioners shall provide notice to current Waveland customers of Indiana-American's rate case currently pending before the Commission in Cause No. 43680. The notice shall be in substantially the same form as that given to Indiana-American's customers and shall be provided prior to the field hearings to be held in connection with the rate case.

7. Customer Deposits. The OUCC and Petitioners stipulate and agree that within three (3) months of closing, Waveland shall refund to the customers the approximately \$8,500 of deposit amounts remaining in its customer deposit fund (either through refunds, bill credits or a combination thereof). Any outstanding balances/arrearage amounts may be deducted from a particular customer's refund amount, if applicable. At the end of the 3-month period, Waveland

shall submit a report to the OUCC listing for each depositor (1) the name of the depositor, (2) the amount of deposit held, (3) any bill credit made to the depositor, (4) the amount of any refund payment other than a bill credit, and (5) the amount of deposit remaining in the depositor's account. The parties agree that with respect to Waveland's obligation under this Paragraph 7, customers with deposits held by Waveland are third party beneficiaries.

8. Informational Post-Closing Report. It is recognized and understood that one of the reasons leading Petitioners to enter the Asset Purchase Agreement is the expectation that Indiana-American will be better equipped to address the current and future needs of the Waveland System as they arise. Indiana-American stipulates and agrees that following the Closing it will operate the Waveland System consistent with the good engineering and business practices Indiana-American follows in the operation of its existing Indiana systems so as to provide reasonable and adequate service to the customers served by the Waveland System. The OUCC and Petitioners stipulate and agree that Indiana-American will provide to the OUCC a report, for informational purposes only, within 24 months after the Closing of the acquisition as defined in the Asset Purchase Agreement between Waveland and Indiana-American (the "Transfer Date"). This report shall neither add to nor subtract from Indiana-American's commitment stated in the second preceding sentence. The report shall contain the following information:

- a. Customer Complaints: A summary of complaints submitted by customers of the Waveland System to the Commission from the Transfer Date through the first 15 months of Indiana-American owning and operating the Waveland System.

- b. Summary of Post-Closing Operations: A summary of information reasonably available to Indiana-American regarding operation of and activities at the Waveland System since the Transfer Date. Items to be described in the summary include: (i) any efficiencies achieved as a result of the transfer of the Waveland System to Indiana-American; (ii) a status report of significant activities or any improvements to the Waveland System commenced since the Transfer Date; (iii) a brief description of proposed improvements to the Waveland System included in Indiana-American's capital plan that have not yet commenced.

To the extent the report required under this Paragraph 8 contains statements with respect to anticipated future operating performance, growth opportunities, or other future events expected or anticipated to be realized by Indiana-American, such statements shall not be construed as guarantees of future performance and Indiana-American shall not incur any liability whatsoever should actual results differ materially from those indicated by the forward-looking statements made in the report. Indiana-American disclaims any obligation to update or revise any forward-looking statements based on the occurrence of future events, the receipt of new information or otherwise. Nothing reported pursuant to this Paragraph 8 shall be construed to create a binding commitment on Indiana-American to comply with or conform to any projections or estimates provided in the report required hereunder. In performing its obligations under this Paragraph 8, Indiana-American shall be required only to submit information to the extent it is reasonably available to Indiana-American and this Paragraph 8 shall not be construed to impose upon Indiana-American any obligation to conduct additional investigations, evaluations or studies beyond what is conducted in its ordinary course of operations.

9. Evidence Admitted. All testimony and evidence prefiled by either party up to and including the date of this Stipulation shall be admissible. The Parties shall jointly offer this Stipulation together with all attachments. The Parties hereby waive cross-examination of each other's witnesses.

10. Mutual Conditions on Settlement Agreement. Petitioners and the OUCC agree for purposes of resolution of the material disputed issues in this Cause, that the terms and conditions set forth in this Joint Stipulation and Settlement Agreement are supported by sufficient evidence and, based on the Parties' independent review of the evidence, represent a fair, reasonable and just resolution of all the issues in this Cause, subject to their incorporation into a final Commission order which is no longer subject to appeal and which is in the form attached hereto without modification or further condition which may be unacceptable to either Party. If the Commission does not approve this Stipulation or does not issue the final order in the form attached hereto in its entirety without modification, the entire Stipulation shall be deemed withdrawn, unless otherwise agreed by the Parties. Petitioners and the OUCC represent that there are no other agreements in existence between them relating to the matters covered by this Joint Stipulation and Settlement Agreement that in any way affect this Agreement.

11. Non-Precedential. The Parties stipulate and agree that this Stipulation and the Order approving it shall not be used as an admission or as a precedent against the signatories hereto except to the extent necessary to implement or enforce the terms of the settlement agreement. The Parties agree that this Stipulation shall not be construed as an admission by any party in any other proceeding, except as necessary to enforce its terms before the Commission, or before any court of competent jurisdiction on these particular issues. This Stipulation is solely the result of compromise in the settlement process and, except as provided herein, is without

prejudice to and shall not constitute a waiver of any position that either of the Parties may take with respect to any or all the items resolved herein in any future regulatory or other proceedings and, failing approval by this Commission, shall not be admissible in any subsequent proceedings.

12. Authority to Stipulate. The undersigned have represented and agreed that they are fully authorized to execute this Stipulation on behalf of the respective parties, who will be bound thereby.

Respectfully submitted,

Indiana-American Water Company, Inc.

By: David Baker  
David K. Baker, President

Town of Waveland, Indiana

By: \_\_\_\_\_  
Patricia Sosbe, Town Attorney

Indiana Office of Utility Consumer  
Counselor

By: Daniel LeVay

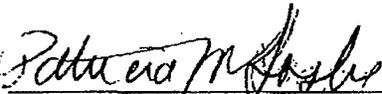
Daniel LeVay  
Assistant Consumer Counselor  
115 West Washington Street  
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(317) 232-3237

Respectfully submitted,

Indiana-American Water Company, Inc.

By: \_\_\_\_\_  
David K. Baker, President

Town of Waveland, Indiana

By:   
Patricia Sosbe, Town Attorney # 10917-54

Indiana Office of Utility Consumer  
Counselor

By: \_\_\_\_\_

Daniel LeVay  
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