

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF BOONVILLE NATURAL GAS )  
CORPORATION FOR AUTHORITY TO CHANGE )  
ITS RATES, CHARGES, TARIFFS, RULES, AND )  
REGULATIONS; AUTHORIZATION OF THE )  
ISSUANCE OF LONG TERM DEBT; AND )  
APPROVAL OF AN ALTERNATIVE )  
REGULATORY PLAN PURSUANT TO INDIANA )  
CODE § 8-1-2.5-6 FOR PURPOSES OF )  
IMPLEMENTING AN ENERGY EFFICIENCY )  
PROGRAM, ASSOCIATED FUNDING AND )  
DECOUPLING MECHANISMS, AND CHANGES )  
TO PETITIONER'S CALCULATION OF COSTS )  
FOR EXTENSION OF DISTRIBUTION MAINS )

CAUSE NO. 44129

APPROVED: NOV 7 2012

ORDER OF THE COMMISSION

**Presiding Officers:**

**David E. Ziegner, Commissioner**

**Loraine L. Seyfried, Chief Administrative Law Judge**

On December 5, 2011, Boonville Natural Gas Corporation (“Petitioner”) filed its Petition with the Indiana Utility Regulatory Commission (“Commission”) seeking authority to change its rates, charges, tariffs, rules, and regulations; issue long term debt; and implement alternative regulatory plans (“ARPs”) for the purpose of initiating an Energy Efficiency Program with accompanying funding and decoupling mechanisms and changing Petitioner’s current cost calculation for distribution main extensions.

Following a Prehearing Conference on January 3, 2012, the Commission issued a Prehearing Conference Order on January 18, 2012 establishing the test year and procedural schedule in this Cause.

On January 25, 2012, Petitioner prefiled its case-in-chief, consisting of the written testimony and exhibits of its witnesses John R. Lewellyn, Duane C. Mercer, Bonnie J. Mann, Earl L. Ridlen, III, John A. Boquist, and Kerry A. Heid. On April 30, 2012, Petitioner filed Revised Exhibits KAH-2 and KAH-3 correcting certain typographical errors. On May 2, 2012, Petitioner prefiled a comparison of its proposed tariff to existing tariffs. The Indiana Office of Utility Consumer Counselor (“OUCC”) pre-filed its case-in-chief consisting of the testimony and exhibits of Mark A. Grosskopf, Heather R. Poole, Bradley E. Lorton, and Jon C. Dahlstrom on May 25, 2012. On June 15, 2012, Petitioner prefiled its rebuttal evidence consisting of the written testimony of its witnesses Duane C. Mercer, Bonnie J. Mann, Earl L. Ridlen, III, John R. Lewellyn, John A. Boquist, and Kerry A. Heid.

An Evidentiary Hearing was convened on August 1, 2012, at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana, at which time the Parties formally advised the Commission that they had reached a settlement in principle on all issues. Based on the Parties' request that they be provided time to reduce their settlement to writing for filing with the Commission, the Evidentiary Hearing was continued to 9:30 a.m. on September 17, 2012. On September 10, 2012, the Parties prefiled their Stipulation and Settlement Agreement ("Settlement") and the supporting settlement testimony of Duane C. Mercer and Kerry A. Heid for Petitioner and Sherry L. Beaumont for the OUCC.

On September 17, 2012, the Commission reconvened the Evidentiary Hearing. Petitioner and the OUCC appeared and offered into evidence their respective pre-filed testimony and exhibits and the Settlement. The Parties waived cross-examination of all witnesses and the pre-filed testimony and exhibits were admitted into the record by agreement of the Parties. No members of the general public appeared.

The Commission, having considered the evidence in this Cause, now finds as follows:

1. **Notice and Jurisdiction.** Due, legal, and timely notice of the proceedings conducted in this Cause were given and published as required by law. Petitioner is a public utility as defined in Ind. Code § 8-1-2-1. Petitioner is also an energy utility as defined in Ind. Code § 8-1-2.5-2 and has elected to be subject to the provisions of Ind. Code ch. 8-1-2.5. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this Cause.

2. **Petitioner's Characteristics.** Petitioner is an investor-owned public utility, organized and existing under the laws of the State of Indiana. Petitioner supplies natural gas and natural gas service to customers in both rural and municipal areas in Warrick County, Indiana.

3. **Existing Rates, Test Year, and Relief Requested.** Petitioner's current base rates and charges are those established by the Commission in its August 27, 2008 Order in Cause No. 43342. Based on a test year ending September 30, 2011, adjusted for fixed, known, and measurable changes occurring within twelve months of the end of the test year, Petitioner calculated its pro forma revenue requirement. Petitioner initially proposed increasing its base rates and charges to increase its pro forma operating revenue by \$813,714, exclusive of the cost of natural gas in accordance with its proposed pro forma revenue requirement. Petitioner proposed to allocate the required revenue increase across-the-board to all customer classes and their respective rates and charges. Petitioner also proposed to issue long term debt, implement ARPs for purposes of implementing an Energy Efficiency Program ("EEP") and change its method of calculating the costs to be recovered from its customers for distribution main extensions.

4. **Evidence of the Parties.**

A. **Petitioner's Case-in-Chief.** Petitioner offered the testimony and exhibits of Mr. Mercer, Ms. Mann, Mr. Ridlen, Mr. Lewellyn, Dr. Boquist and Mr. Heid. Mr. Mercer explained that his accounting firm, London Witte Group, was engaged to review Petitioner's financial records and advise Petitioner on an appropriate level of revenue in light of its operating

expenses and investment in utility plant. Mr. Mercer's testimony indicated that Petitioner is not earning a reasonable rate of return on its investment and, in fact, is not earning the return authorized in Petitioner's last rate case. Mr. Mercer proposed that Petitioner be authorized to increase its rates and charges in order to produce an additional \$813,714 in operating revenue, exclusive of the cost of gas. Mr. Mercer noted that this would result in an authorized net operating income of \$440,666 at a 9.48% overall rate of return on its existing rate base, using a depreciated original cost analysis of Petitioner's utility plant in service.

Ms. Mann offered testimony and exhibits describing and supporting the various pro forma adjustments to Petitioner's test year operating results used to establish Petitioner's requested pro forma revenue requirement. Petitioner's proposed pro forma adjustments to current operating revenue and operating expenses included adjustments to: eliminate Gas Cost Adjustment revenues; recognize unaccounted for gas; eliminate from base rates the cost of natural gas purchased; increase Petitioner's payroll; decrease Petitioner's retirement plan costs; recover rate case expense; recover the expenses associated with the ARP authorized in the Commission's November 30, 2011 Order in Cause No. 43995 ("Cause No. 43995 Order"); remove rebates associated with the normal temperature adjustment ("NTA") that will become part of the EEP; increase outside services for future decoupling mechanism filings; cover the cost of increased postage; cover various insurance cost increases; remove charitable contributions; update depreciation expense; recover the Indiana Utility Regulatory Commission fee ("IURC fee") on pro forma revenues; reflect an increased expense for bad debt; increase the allowance for 401(k) matching contributions; and make various other flow-through changes to operating expenses, including taxes. Mr. Ridlen provided additional support for the proposed adjustments to taxes paid by Petitioner.

Petitioner's President, John R. Lewellyn, described the overall change in rates requested by Petitioner, exclusive of the cost of natural gas. Mr. Lewellyn also provided his opinion on the fair value of Petitioner's used and useful utility plant in service. He described Petitioner's request to issue long term debt of up to \$250,000 at an interest rate of up to 4.5% for up to five years to primarily fund main improvements in downtown Boonville. In addition, Mr. Lewellyn described Petitioner's request to implement the EEP and the associated funding and decoupling mechanisms previously authorized by the Cause No. 43995 Order. Mr. Lewellyn also explained Petitioner's request for an ARP to change the methodology used to calculate the costs Petitioner can recover from its customers for future distribution main extensions.

Dr. Boquist, a Professor Emeritus at the Indiana University Kelley Graduate School of Business, described his review of the Petitioner, his analysis of a proxy group of regulated natural gas utilities, his opinion as to the current economic condition faced by Petitioner, and his opinion regarding Petitioner's cost of equity capital and a reasonable return on such equity investment. Dr. Boquist utilized the Discounted Cash Flow ("DCF") and the Capital Asset Pricing Model ("CAPM"), which produced a cost of equity range of 10.01% to 11.16%. Dr. Boquist explained the risks faced by Petitioner, including unique risks associated with its size, lack of marketability, and competition from alternative energy sources within its service territory. He recommended a 10.89% cost of equity for Petitioner.

Mr. Heid offered testimony and exhibits reflecting the allocation of Petitioner's proposed revenue requirement across-the-board to all current customers. Mr. Heid also offered testimony about the proposed Energy Efficiency Rider, which would provide the Energy Efficiency Funding Component ("EEFC") and the Sales Reconciliation Component ("SRC") previously authorized by the Commission in the Cause No. 43995 Order, subject to the completion of this rate case.

**B. OUCC's Case-in-Chief.** The OUCC offered the testimony and exhibits of its witnesses, Mr. Grosskopf, Ms. Poole, Mr. Lorton, and Mr. Dahlstrom. While the OUCC accepted a number of Petitioner's proposals and proposed revenue requirement adjustments, Mr. Grosskopf and Ms. Poole recommended a number of other pro forma adjustments, including: changes to the total depreciated original cost of Petitioner's plant in service; an adjustment to rate case expense and the amortization period for its recovery; a change to the test year employee insurance expense; a change in the amortization period of expenses associated with gaining authorization of the EEP; a reduction in retirement plan costs to account for a mathematical error in Petitioner's revenue requirement schedules; a change in the estimated amount for future outside services associated with the decoupling mechanism; elimination of additional miscellaneous and administrative general expenses; a decrease in lease expense; a change in depreciation expense based on adjustments to Petitioner's utility plant in service related to reclassifying assets from 5-year property to 10-year property; a lower bad debt expense estimate; and various other flow-through adjustments to expenses, including taxes, the IURC fee, and bad debt expense.

Ms. Poole also testified concerning recommended changes to Petitioner's rate base and capital structure. She sponsored the accounting schedules supporting the OUCC's adjustments to Petitioner's test year operating results and pro forma revenue requirement.

Mr. Lorton testified regarding Petitioner's proposed cost of equity and an appropriate return on Petitioner's equity investment. He also utilized the DCF and CAPM methods for calculating Petitioner's cost of equity, but his calculations produced a cost of equity range of 7.34% to 9.00%. He recommended a 9.00% cost of equity for Petitioner.

Mr. Dahlstrom raised a number of questions about the application of Petitioner's requested across-the-board increase in rates and charges and certain language in Petitioner's proposed tariffs. He also objected to Petitioner's proposed implementation of its Energy Efficiency Rider, absent further clarification from Petitioner. But, he recommended approval of the proposed main extension deposit rule.

**C. Petitioner's Rebuttal.** In its rebuttal case, Petitioner offered the testimony of Mr. Mercer, Ms. Mann, Mr. Ridlen, Mr. Lewellyn, Dr. Boquist and Mr. Heid. Mr. Mercer addressed the OUCC's position on the amount and amortization period for recovery of rate case expense. Based on actual expenses incurred in Petitioner's last rate case (Cause No. 43342) and in Indiana Utilities' most recent rate case, Cause No. 44062, Mr. Mercer opposed the OUCC's position on recoverable rate case expense. He also testified that Petitioner plans to file its next base rate case in three or four years, which was shorter than the OUCC's proposed seven-year amortization period. Mr. Mercer also opposed the OUCC's recommended return on

equity, focusing on the Commission's decision and the OUCC's testimony in *Westfield Gas Corporation*, Cause No. 43624, (IURC March 10, 2010) and the differences between Westfield Gas and the Petitioner in this case. Mr. Mercer discussed the factors he believed reflected significant improvement in economic conditions that would increase the cost of equity in the near future, such as increased home sales, reduced unemployment, Indiana business expansions, and stronger equity markets. He concluded that Indiana's economy has improved since the *Westfield Gas Corporation* rate case was decided in 2010, justifying a higher cost of equity than recommended by the OUCC.

Ms. Mann opposed the OUCC's recommended adjustments to total rate case expense; the amortization period for recovery of rate case expense; employee insurance expenses; amortization of expenses associated with the ARP authorized in the Cause No. 43995 Order; future decoupling expenses; miscellaneous administrative and general expenses; depreciation and rate base. Ms. Mann agreed with the OUCC's adjustments for lease, retirement plan costs and bad debt expenses. Ms. Mann explained that differences between the amounts the Petitioner and the OUCC proposed for property taxes, utility receipts taxes, federal and state income taxes, and working capital are due to differences in operating expenses which, in turn, affected the above flow-through adjustments. Ms. Mann also observed that Petitioner and the OUCC used the same methodologies to compute these flow through adjustments.

Mr. Ridlen discussed Petitioner's ability to review invoices from London Witte Group and seek clarification, if needed. He opined on the reasonableness of the amounts already invoiced by London Witte Group and his firm's unique expertise in handling utility rate cases before the Commission. Mr. Ridlen also described how the OUCC's depreciation adjustments impacted Petitioner's capital structure and rate base.

Mr. Lewellyn responded to the OUCC's concerns regarding rate case expense and the amortization period used. He testified the rate case expense requested here was less than that incurred in Petitioner's last rate case in 2008. He confirmed that Petitioner would likely be filing a new base rate case in three or four years for reasons already explained by witnesses from London Witte Group. Mr. Lewellyn also testified concerning planned improvements to Petitioner's utility plant in service. Finally, he described Petitioner's review of invoices received from London Witte Group and his opportunity to raise questions on such invoices in weekly discussions during this rate case. With respect to Petitioner's proposed change in the method of calculating cost recovery for distribution main extensions, Mr. Lewellyn testified in favor of being consistent on such matters with those small gas utilities that participated in Cause No. 43995.

Dr. Boquist challenged the OUCC's position regarding a fair return on equity. He testified the OUCC's proposed 9.00% return on equity is well below the rate the OUCC previously proposed for Westfield Gas in Cause No. 43624. Dr. Boquist criticized the OUCC for not giving sufficient weight to differences between the proxy group and Petitioner and to differences between Petitioner and Westfield Gas, which he testified would support a higher return on equity than the rate approved by the Commission in Cause No. 43624. Dr. Boquist also explained differences between his assessment and the OUCC's assessment of inflation, the effects of decoupling, and macro-economic trends and the impact those differences would have

when determining a fair rate of return. Dr. Boquist did not alter his original recommendation concerning a fair return on equity for Petitioner.

Mr. Heid addressed the OUCC's concerns about how Petitioner's increased revenue requirement should be recovered from different customer classes. Mr. Heid opposed the OUCC's proposed use of avoided cost to allocate customer costs and continued to support an across-the-board allocation of the increase in Petitioner's pro forma revenue requirement. He testified the proposed Energy Efficiency Rider, which includes both the EEFC and SRC, follows the Commission's Cause No. 43995 Order. Finally, Mr. Heid addressed the OUCC's concerns regarding the calculation of order granted margins, and addressed several errors in the proposed tariff.

**D. Settlement and Settlement Testimony.** The Parties' Settlement, a copy of which is attached hereto, indicates the Parties' agreement that Petitioner's current rates and charges should be increased to produce additional annual operating revenue of \$572,348, exclusive of the cost of natural gas. The Parties also agreed that Petitioner should be authorized to: (a) issue long term debt of up to \$250,000 for a term not to exceed five years, at a fixed interest rate not to exceed 4.5%, and should report on the completion and specific terms of the authorized financing within sixty days of the loan closing date; (b) implement the ARP previously approved for the Energy Efficiency Program authorized in the Cause No. 43995 Order, including associated program cost recovery and rate decoupling mechanisms; and (c) implement a separate ARP with the new agreed methodology for calculating costs Petitioner is authorized to recover from customers for future distribution main extensions.

Both Parties submitted testimony in support of the Settlement. Petitioner's witness Mr. Mercer explained that Petitioner and the OUCC reached a compromise on all issues in this Cause. Mr. Mercer testified that he and his colleagues prepared settlement schedules in the same format of the original accounting schedules in this case which numerically describe the settlement reached by the Parties on Petitioner's pro forma operating revenue and expenses, rate base and weighted cost of capital.

Mr. Heid described the Parties' agreement on how Petitioner's increased revenue will be recovered from Petitioner's customer classes, through their respective rates and charges. He explained the Parties' compromise includes an increase in the current monthly customer service charge for all customer classes and an across-the-board increase to the volumetric rates. The agreed proposed service charge is \$12 per month for residential class customers; \$18 per month for Group 1 metered commercial service class customers; \$36 per month for Group 2 metered commercial service class customers; and \$180 per month for interruptible transportation service class customers. The Parties also agreed that customers under the existing school transportation service class should continue to be charged the current respective monthly commercial customer service class charges of Group 1 meter or Group 2 meter, as appropriate. The asphalt plant transportation service class, which currently has no customer charge, will remain unchanged. Mr. Heid also sponsored a revised tariff for an Energy Efficiency Rider and explained the new agreed methodology for calculating costs Petitioner is authorized to recover from customers for future distribution main extensions.

The OUCC's witness, Ms. Sherry L. Beaumont, confirmed the figures in Petitioner's settlement schedules and provided an overview of the negotiated compromises reached on each revenue requirement element and accounting adjustment in dispute in the Parties' prefiled direct and rebuttal testimony. Ms. Beaumont explained that each of the Parties made material concessions and the terms of the Settlement demonstrate the give and take of negotiations as the Parties worked to resolve multiple contested issues. Ms. Beaumont indicated the OUCC was able to negotiate significant reductions in Petitioner's proposed revenue requirement and the requested rate increase. She noted the Settlement also eliminates the risk and expense of further litigation and allows Petitioner to move forward without delay in introducing the energy efficiency programs approved on a pilot basis in the Cause No. 43995 Order. Ms. Beaumont testified that those programs are expected to help prevent waste and reduce natural gas usage in the future, with the potential to reduce ratepayers' future gas utility bills. Finally, Ms. Beaumont confirmed the OUCC's belief that the public interest will be served if the Commission decides to approve the terms of the proposed Settlement.

**5. Commission Discussion and Findings.** 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 proposed Settlement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement is reasonable, just, and consistent with the purpose of Ind. Code chapters 8-1-2 and 8-1-2.5, and that such Settlement serves the public interest.

The Parties, through their respective testimony and exhibits, have provided the Commission with evidence supporting their original positions and the compromise reached in the Settlement in this Cause. That evidence supports the adjustment of Petitioner's base rates to recognize various changes in operating expenses, including: increases in payroll; changes in pension (retirement plan expenses) and 401(k) expense; increases in FICA taxes associated with payroll; the actual costs incurred by Petitioner to participate in Cause No. 43995; a portion of the costs associated with future filings regarding the decoupling mechanism that flow from the Cause No. 43995 Order; adjustments to recognize that approved energy efficiency rebates will continue to be funded, but through the Energy Efficiency Rider, instead of the NTA; an adjustment to recognize that the depreciation expense for Petitioner's depreciable plant should change due to changes in its utility plant in service and a recognition that certain equipment has

used and useful lives different from that originally booked by Petitioner; increased postage and insurance costs; and decreases in various miscellaneous, general and bad debt expenses.

The evidence also reveals the Parties agreed on the amount of rate case expense recoverable through rates over a five-year amortization period, Petitioner's weighted cost of capital, and the appropriate value of Petitioner's rate base as of the end of the test year on an original cost basis. With respect to Petitioner's weighted cost of capital, the Parties agreed upon a 10.10% cost of equity. The agreed upon percentage is within the range initially proposed by the Parties and consistent with the cost of equity recently granted to Indiana Utilities Corporation which was also implementing energy efficiency and decoupling programs. *See Indiana Utilities Corporation*, Cause No. 44062 (IURC September 5, 2012).

Based upon the evidence of record, we find that Petitioner's current rates and charges are insufficient and must be increased. The Settlement Agreement provides for Petitioner to increase revenues by \$572,348. However, Petitioner's revenue increase calculation omitted the deduction of bad debt expense from total revenues in the calculation of the IURC fee adjustment under present and proposed rates. Therefore, Petitioner is authorized to increase its rates and charges in order to produce additional operating revenue of \$572,334, net of the cost of gas, to provide Petitioner with the opportunity to earn a net operating income of \$377,422. This reflects the opportunity for Petitioner to earn approximately 8.12% on its original cost rate base (as of the end of the test year) of \$4,648,056. The increase represents an approximate 11.70% increase in Petitioner's total revenues and an approximate 31.09% increase in the non-gas portion of Petitioner's operating revenues.

We find the Parties' proposed allocation of the revenue increase to increased monthly customer service charges, and thereafter on an across-the-board basis to Petitioner's volumetric rates, is reasonable and should be approved. As evidenced by Petitioner's Exhibit KAH-7, the agreed upon customer charges are consistent with the charges of other similar gas utilities in the State of Indiana. In addition, the proposed tariff language describes the mechanics of the Energy Efficiency Rider and demonstrates the EEFC and the SRC will be calculated and applied in the manner authorized by the Commission in the Cause No. 43995 Order.

We also find the Parties' agreement that Petitioner should be authorized to issue long term debt in an amount up to \$250,000 for a period of up to five years at a fixed interest rate not to exceed 4.50% is reasonable and should be approved. Petitioner's proposed main improvements are reasonable and necessary to provide safe and reliable service to customers. We also find that, consistent with standard practice, Petitioner should file a report in this Cause within sixty days of the loan closing date reporting the specific terms of the actual financing.

With respect to Petitioner's request to modify its method of calculating costs to be recovered from customers for distribution main extensions, the Commission finds the modified main extension policy agreed upon by the Parties to be reasonable. The modification to calculate the cost of main extensions using margin-based revenues over a six-year period is appropriate given the fact that Petitioner has decoupled its margins from total revenues. The modifications are also consistent with other Commission approvals for utilities implementing decoupling mechanisms. *See Indiana Utilities Corporation*, Cause No. 44062 (IURC September 5, 2012).

Consequently, based on the evidence presented, we find the Parties' Settlement is consistent with the purposes and requirements of Indiana law and in the public interest. While we approve the Settlement presented herein, we remain concerned with the inconsistent positions taken concerning rate design and cost of service. The OUCC, at least initially, advocated keeping Petitioner's fixed charges at current levels and recovering the entire requested increase through volumetric rates. However, because the majority of Petitioner's costs are fixed, high usage customers may be subsidizing lower usage customers if more fixed costs are not recovered through the customer charge. As we recently noted, it is the utility's obligation to present sufficient evidence to support its proposed rate design, which often requires performing a cost of service study ("COSS"). *Indiana Utilities Corporation*, Cause No. 44062 at 24-25 (IURC September 5, 2012). A COSS is particularly relevant when a substantial period of time has passed since the last COSS was conducted or when a decoupling mechanism is proposed. *Id.* Therefore, we find Petitioner should continue to move towards a straight fixed variable rate design and shall submit a COSS in its next rate case in order to continue implementing a decoupled rate design.

Finally, the parties agree that the Settlement should not be used as precedent in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. Consequently, with regard to future citation of the Settlement, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, (IURC March 19, 1997).

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

1. The Parties' Settlement is hereby approved.
2. Petitioner is authorized to increase its rates and charges, in accordance with our findings in Paragraph 5 above, to produce an additional \$572,334 in annual revenue beyond that provided by Petitioner's current rates and charges.
3. Petitioner is authorized to implement the Energy Efficiency Program previously approved in Cause No. 43995, including the recovery of Petitioner's share of joint energy efficiency program costs and SRC recovery, subject to the terms of the Cause No. 43995 Order and in accordance with our findings in Paragraph 5 above.
4. Petitioner is authorized to implement the alternative regulatory plan for main extension cost recovery in accordance with our findings in Paragraph 5 above.
5. Petitioner shall file with the Commission under this Cause, prior to placing into effect the rates and charges and Terms and Conditions for Gas Service authorized herein, tariff schedules set out in accordance with the Commission's rules for filing utility tariffs. Said tariffs, when filed by Petitioner and upon approval by the Commission's Natural Gas Division, shall cancel all present and prior rates and charges concurrently when said rates and charges herein are approved and placed into effect by Petitioner.

6. Petitioner is authorized to issue long term debt in the amount and on the terms contained in the Settlement. Following the closing on such debt issuance, Petitioner shall make a compliance filing with the Commission under this Cause concerning the final terms of such loan(s) within sixty days after closing.

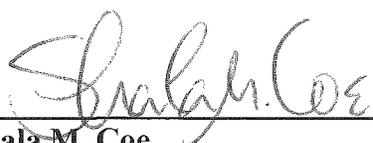
7. Petitioner shall file a cost of service study in its next base rate case.

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

**ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:**

**APPROVED: NOV 7 2012**

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

  
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**Shala M. Coe**  
**Acting Secretary to the Commission**



1. **Rate Increase.** Based on the test year ending September 30, 2011, as adjusted for matters that are fixed, known, and measurable, and occurring within 12 months of the test year, Petitioner proposed in its direct case filed January 25, 2012, that its operating revenue should be increased exclusive of the cost of gas by \$813,714. The OUCC proposed in its direct case filed May 25, 2012, that operating revenue be increased by \$477,565 exclusive of the cost of gas. The Parties now agree that Petitioner should be authorized to increase its base rates and charges for purposes of natural gas service to its various customers to produce additional annual operating revenue, exclusive of the cost of gas, by \$572,348. This represents an increase of approximately 11.70% over adjusted test year operating revenue, including the cost of gas.

2. **Pro Forma Adjustments.** Petitioner proposed in its direct case various adjustments to its test year results as set forth numerically in Petitioner's Exhibit DCM-1, Exhibit C, and accompanying schedules. The pro forma adjustments were further described by Petitioner's witnesses Mr. Mercer, Ms. Mann and Mr. Ridlen. The proposed pro forma adjustments related to both operating revenue and operating expenses, and included: adjustments to eliminate revenues recovering gas commodity costs and the cost of natural gas purchased from base rates; an increase in payroll, net of amount capitalized; changes to pension and 401(k) expenses based on pro forma payroll; recovery of rate case expense; recovery of expenses associated with an alternative regulatory plan (ARP) where Petitioner and other utilities requested an Energy Efficiency Program (EEP) in Cause No. 43995; reduction for rebates associated with the NTA that will become part of the EEP going forward; estimated increase in outside services for decoupling (decoupling expenses); increase in postage; increases in various insurance costs; removal of charitable contributions; increase in depreciation relative to an increased utility plant in service; recovery of an appropriate IURC fee; recovery of appropriate

bad debt expense; recovery of increased FICA taxes due to payroll increases; reduction in property tax; and recovery of various other taxes that are associated with and flow from Petitioner's proposed increased revenue, including utility receipts tax, state income tax, and federal income tax. Petitioner also sought to establish the value of its rate base; and the elements of and costs associated with its capital structure.

With the filing of the OUCC's case-in-chief on May 25, 2012, the OUCC suggested different adjustments relating to various proposals described in Petitioner's direct case-in-chief, including those related to: rate case expense and the amortization period for its recovery; employee insurance expenses; a reduction in bad debt expense; a change in the amortization period for recovery of the costs associated with the EEP from Cause No. 43995; a different estimated amount for outside services associated with decoupling expenses; elimination of additional miscellaneous administrative and general expenses, including a reduction for lease expenses; a reduction in depreciation expense based on suggested adjustments to utility plant in service; and the corresponding impact of these different adjustments and changes on various flow through taxes such as utilities receipts tax, state income tax, and federal income tax; as well as other flow through pro forma proposed rate adjustments such as the IURC fee and bad debt expense. Through negotiation and compromise, the Parties have resolved all of these pro forma differences and stipulate to the following pro forma adjustments:

**Payroll Expense.** The Petitioner, as part of its direct case, proposed to adjust its test year operation and maintenance expenses for purposes of annualizing increases in payroll net of the amount of payroll capitalized by \$59,275. The OUCC, following its review of Petitioner's books and records and Petitioner's

responses to both formal and informal discovery, agreed with Petitioner's proposed adjustment. The Parties' agreement on payroll is reflected in Settlement Schedule C-1, Adjustment 3(a). **Pension and 401(k) Expense.** The Petitioner initially proposed in its direct case a decrease in pension expense of (\$30,378) and an increase in 401(k) contributions of \$1,087. The OUCC suggested the actual adjustment for pension should be a decrease in pension expense of (\$44,160), but agreed with the Petitioner's 401(k) upward adjustment. The Parties now agree that the appropriate flow through pension expense is a downward adjustment of (\$44,160) and the appropriate 401(k) expense is an upward adjustment of \$1,087 as reflected on Settlement Schedule C-1, Adjustment 4(e) and 4(j).

**FICA.** FICA expense is a flow through expense based on annual payroll expense. The Parties have agreed to the method of calculation and the appropriate tax rate. With the agreed changes in payroll, the Parties agree that Petitioner's pro forma FICA expense should be adjusted upward by \$4,535 as reflected on Settlement Schedule C-1, Adjustment 6(a).

**ARP Expenses Associated with EEP.** The Petitioner proposed recovery of its cost in participating with other small gas utilities in the ARP initiated to establish the EEP, along with funding and decoupling mechanisms. Such ARP was filed under Cause No.

43995 and resulted in an order from the Commission on November 30, 2011. Petitioner's proposal was to recover its actual costs incurred, using a three year amortization period by way of an upward adjustment to its test year operating expenses. Petitioner's adjustment provides for the annual recovery of \$11,680. The OUCC, while agreeing that recovery was appropriate, used a lower amount based upon the OUCC's belief that a seven year amortization period was more appropriate. Following discussion, the Parties agree that the actual amount incurred by Petitioner was the appropriate amount to be recovered, but that an amortization period utilizing five years, similar to the amortization period for rate case expense recovery, is a reasonable compromise. The resulting adjustment agreed to by the Parties is an upward adjustment of \$7,008 reflected on Settlement Schedule C-1, Adjustment 4(d).

**Rebates to be Included in EEP.** The Petitioner in its direct case proposed to remove (\$6,500) from test year operating expenses because such expenses were to be incurred in the future through the EEP, rather than the NTA. Following its review of Petitioner's books and records, the OUCC agreed with Petitioner's adjustment. The Parties are in agreement on a downward adjustment of (\$6,500) to the test year, as reflected on Settlement Schedule C-1, Adjustment 4(g), because such rebates will be included in the EEP

and its associated funding mechanism described below as part of the Energy Efficiency Rider.

**Decoupling Expenses.** The Petitioner described future filings that this Petitioner will be required to make as part of the EEP as required under Cause No. 43995. Petitioner's witnesses estimated an initial cost, requiring an adjustment to test year expenses of \$8,000. The OUCC proposed a different adjustment, of \$4,964, based upon its belief that Petitioner would be sharing reporting and regulatory costs in any future filings with other small gas utilities. Following exchange of information among the Parties and in recognition of the Parties' Settlement in 44128, the Parties have agreed that Petitioner's test year should be adjusted upward by \$3,250 as reflected in Settlement Schedule C-1, Adjustment 4(h).

**Depreciation Expense.** The Petitioner, in its direct case, proposed an upward adjustment to annual depreciation expense for its depreciable plant in the amount of \$180,639. The OUCC proposed a recalculated depreciation expense following the OUCC's suggested adjustments to Petitioner's utility plant in service to reflect those assets of Petitioner's utility plant that had longer useful lives. The OUCC has proposed a pro forma depreciation expense of \$131,556. Following a further discussion and exchange of information on the useful lives of Petitioner's depreciable assets, the Parties are now in agreement that Petitioner should depreciate

such assets on the basis of 20% for computer, communication, and transportation equipment; 10% for general plant, power equipment, and heavy general purpose equipment such as its dump trucks; and 3% on distribution plant. Based on such agreed depreciation rates, the Parties are in agreement that depreciation expense should be adjusted upward in the amount of \$133,969 as reflected on Settlement Schedule C-1, Adjustment 5.

**Postage.** Petitioner's direct case-in-chief proposed to adjust its postage expense upward to reflect an increase in the postage rates. The OUCC indicated it had reviewed the adjustment and had no objections. Therefore, the Parties have agreed to an upward postage adjustment of \$770 as reflected in Settlement Schedule C-1, Adjustment 4(i).

**Insurance Costs.** In its direct case, Petitioner proposed upward adjustments for various insurance expenses, including an adjustment of \$1,360 to cover the increased cost of property, workers' compensation, casualty, and general liability insurance coverage. Petitioner also proposed an upward adjustment of \$9,140 to reflect the increase in health, life, and dental insurance coverage. The OUCC indicated no objection to Petitioner's property, workers' compensation, casualty, and general liability insurance test year expenses or adjustments. However, the OUCC proposed a different adjustment for health, life, and dental

insurance (employee insurance) coverage, both as to test year expenses and pro forma adjustments. The result of the OUCC's adjustment is an upward adjustment of \$1,251. Following further exchange of information, the Parties agree that Petitioner's proposed upward adjustment of \$1,360 for property, workers compensation, casualty and general liability insurance expense, and the upward adjustment of \$9,140 for health, life, and dental insurance expenses should be used in this cause as reflected on Settlement Schedule C-1, Adjustments 4(a) and (b).

**Bad Debt.** The Petitioner proposed to increase its test year operating expenses based on a three year average of bad debt expense. The OUCC agreed with Petitioner's methodology but proposed an updated three year average. The Parties have agreed that the OUCC's updated information should be used and thus test year bad debt expense should be adjusted downward by (\$5,631). In addition, the Parties are in agreement that with the increase in revenue to Petitioner following the Commission's order in this cause, an additional increase of \$1,149 based on a current effective rate of 0.0020075 is appropriate. Such adjustments are reflected in Settlement Schedule C-1, Adjustment 4(c) and Settlement Exhibit (C), respectively.

**Miscellaneous Administrative and General Expense.** The Petitioner proposed to remove certain administrative and general

expenses to eliminate charitable contributions from the test year operating expenses in the amount of (\$880) as reflected in its direct case-in-chief, Schedule C-1, Adjustment 4(f). While it accepts this adjustment, the OUCC proposed to adjust additional expenses for lobbying dues, holiday gifts, and out of state fuel purchases in the amount of (\$6,433), and an additional downward adjustment of (\$3,300) to recognize the change in lease rates of certain vehicles. In recognition of the compromises reached in this settlement, the Parties have now agreed to all of the above adjustments as reflected on Settlement Schedule C-1, Adjustments 4(f) and (j).

**Taxes.** In its direct case-in-chief, the Petitioner indicated that various taxes would be required to be paid by Petitioner, with the specific amounts to be calculated based on the impacts from various elements of Petitioner's revenue requirement. The OUCC agreed with Petitioner's description of the flow through nature of such taxes and also agreed with Petitioner's method of calculating pro forma taxes. The Parties indicate that it is their belief that the taxes as reflected on Settlement Schedules C-1 and C-2 are reasonable and should be included in the Commission's final order, using the same method of calculation used by the Parties and as reflected in the Settlement Schedules.

**Rate Case Expense and Amortization.** The Petitioner, in its direct case, proposed recovery of \$250,000 in rate case expense

plus the cost associated with mailing notices to Petitioner's customers, over three years in recognition of the expected time period these rates will be in effect. The OUCC proposed rate case expense of \$162,500, plus the cost of mailing, amortized over seven years. The Parties have now agreed, in light of the settlement of this particular case, that recovery of \$220,000 in rate case expense amortized over five years is a reasonable compromise of their respective positions as reflected on Settlement Schedule C-1, Adjustment 3(b). Petitioner has also agreed to change its rates in the future for purposes of eliminating this amortization following five full years of recovery if a new rate case has not been filed.

**IURC Fee.** The Petitioner proposed to increase its test year IURC fee expenses based on the current IURC fee of 0.11785100. The OUCC indicated it had reviewed the adjustment, but had no objections. Therefore, the Parties have agreed to an upward IURC fee adjustment of \$1,952 as reflected on Settlement Schedule C-1, Adjustment 3(c). In addition, the Parties also agreed to update the IURC fee for pro forma proposed revenue based on the current IURC fee rate of 0.11785100 as reflected on Settlement Schedule C-2, Adjustment (B).

3. **Rate Base.** In its direct case-in-chief, the Petitioner proposed a rate base of \$4,648,385. This rate base, as described by Petitioner's witnesses, was calculated using the

original cost value of Petitioner's use and useful utility plant in service as of September 30, 2011, in the amount of \$12,139,726, less accumulated depreciation of \$5,678,215, less contributions in aid of construction of \$2,119,182, resulting in net utility plant in service of \$4,342,329, plus working capital, plus materials and supplies. The OUCC indicated that its review of Petitioner's books and records suggests that Petitioner's utility plant in service value should be changed to reflect the recalculation of depreciation due to the OUCC's recognition of the longer lives of some depreciable assets adding \$28,530 to accumulated depreciation. However, the Parties also agree that other depreciable amounts (communication and computer equipment) have shorter useful lives than previously recorded which require an additional change of (\$18,204) to accumulated depreciation. The Parties have now agreed on the appropriate depreciation rates that effectively recognize the actual useful lives of Petitioner's depreciable assets which effectively changes accumulated depreciation as first proposed to a total accumulated depreciation of (\$5,667,889), as reflected in Settlement Exhibit D. Further, based on the agreement of the Parties as to various operating expenses, the Parties now also agree that the working capital component of Petitioner's rate base for purposes of setting rates should be \$145,327. They further agree that the materials and supplies component should be \$150,075. The result of the Parties' settlement of these different issues of Petitioner's rate base is that the Parties now agree that Petitioner's rate base calculated on an original cost basis as of September 30, 2011, net of depreciation is \$4,648,057 as reflected on Settlement Exhibit D. The Parties also agree that this agreed original cost rate base should be used to determine an appropriate pro forma net operating income for this Petitioner.

4. **Cost of Capital.** The Petitioner, through its direct case, and the OUCC, through its direct case, each proposed a capital structure generally using the same elements. The Parties

are in agreement that the elements of the capital structure include common equity in an amount of \$5,671,083, new long term debt in the amount of \$250,000, customer deposits in the amount of \$391,277, and deferred tax in the amount of \$1,161,752. With respect to the costs of those other elements, the only initial disagreement related to the appropriate return on equity to be included in this capital structure. Originally, Petitioner proposed 10.89% as a return on equity. The OUCC proposed 9.00%. Following negotiations, the Parties have agreed that 10.10% represents an appropriate compromise return in recognition that all issues of this case have been settled by this Settlement. In light of the agreement of the Parties, the Parties believe the following table accurately reflects their agreement as to the Petitioner's capital structure and its various costs:

Description	Amount	Percent of Total	Cost	Weighted Cost
Common Equity	\$5,671,083	75.8763%	10.10%	7.66%
Long Term Debt	\$250,000	3.3449%	4.50%	0.15%
Customer Deposits	\$391,277	5.2351%	6.00%	0.31%
Deferred Taxes	\$1,161,752	15.5437%	0.00%	0.00%
Total	\$7,474,112	100%		8.12%

5. **Pro Forma Net Operating Income.** Based upon the agreement of the Parties as to Petitioner's rate base and Petitioner's cost of capital; and recognizing the Parties' agreement as all other elements of Petitioner's revenue requirements; the Parties agree the Petitioner should be authorized to earn 8.12% on its invested original cost rate base of \$4,648,057, thus authorizing Petitioner the opportunity to earn a net operating income of \$377,422.

6. Cost of Service/Tariffs. The Petitioner, in its direct case, proposed to allocate its pro forma revenue requirement across the board to all rates and charges. The OUCC, in its direct case, suggested that an allocation across the board would be acceptable if Petitioner did not change the monthly customer service charge. Following extensive discussions among the Parties about Petitioner's current rate classes and the OUCC's desire to limit the increase in the monthly customer service charge, the Parties have agreed that an increased monthly customer service charge is appropriate, but that the increase proposed by Petitioner should be reduced to \$12 for residential customers, \$18 for commercial customers under the Group 1 meter classification, \$36 for commercial customers falling within the Group 2 meter classification, and \$180 for the interruptible transportation service class. The Parties agree that the school transportation service should continue to follow the appropriate commercial customer classification for monthly service charges as currently used in Petitioner's tariff. Finally, the Parties agree that the remainder of the revenue requirement not anticipated to be collected through the monthly customer service charges should be allocated on an across the board volumetric basis. The Parties' agreements as to the appropriate allocation of its cost of service are reflected in Settlement Tariff KAH-4.

As part of its direct case, the Petitioner also proposed an Energy Efficiency Rider to initially implement an Energy Efficiency Funding Component (EEFC) of 83¢ per month per residential customer for purposes of funding its EEP and to implement a Sales Reconciliation Component (SRC) for all residential customers as its decoupling mechanism. Both the EEFC and the SRC flow from this Commission's order in Cause No. 43995. Following discussions, the Petitioner and OUCC agree that the EEFC and the SRC should be implemented as proposed.

The tariff the Parties proposed be used to implement the EEFC and the SRC is as set forth in the language of Petitioner's Settlement tariff KAH-4.

7. **Main Extension Policy.** The Petitioner, in its case-in-chief, proposed an alternative regulatory plan to change the calculation for main extensions from one involving gross revenue to one involving margin revenue. Petitioner also proposed that the three year average of revenue be changed to a six year average. Both proposals are similar to the proposals of Indiana Utilities in Cause No. 44062 and Midwest Natural Gas in Cause No. 44063. The OUCC has indicated it has reviewed Petitioner's proposal and agrees that the main extension should be calculated on margin revenue and should use a six year period instead of a three year period. The Parties agree that the settlement tariff, KAH-4, appropriately describes the agreed main extension policy that this Petitioner should use following a final order from the Commission in this cause.

8. **Long Term Debt.** The Petitioner, in its case-in-chief, requested authority from this Commission to enter into new long term debt. The OUCC has indicated no objections to this request and both Parties have included new long term debt in the capital structure in this Settlement. The Parties agree that the Petitioner should be authorized as requested in its case-in-chief to issue long term debt in an amount up to \$250,000 for a period of up to five years at a fixed interest rate of up to 4.5%. The Parties further agree that the Petitioner should report to the Commission, with a copy to the OUCC, on the final terms of any loan obtained through this authority within 60 days following the closing on such loan.

9. **Request for Prompt Approval by the Commission.** The Parties acknowledge that a significant motivation for the Petitioner to enter into this Settlement is the expectation that a final order will be issued promptly by the Commission authorizing increases in its rates and

charges as reflected herein. The Parties have spent significant time and effort to resolve the issues raised in this case. However, the Parties also recognize the insufficiency of Petitioner's current rates, as reflected by the prefiled evidence. Under these circumstances, Petitioner requests prompt approval of this Settlement by way of a final order of the Commission.

10. **Sufficiency of the Evidence.** The Parties believe that the Petitioner's direct testimony and exhibits, the OUCC's testimony in support of settlement agreement, the Petitioner's rebuttal testimony and exhibits, the Parties' settlement testimony and exhibits, along with this Stipulation and Settlement Agreement, constitute substantial evidence sufficient to support this Settlement and provide an adequate evidentiary basis upon which the Commission may make findings of fact and conclusions of law necessary to issue a final order adopting and approving this Settlement.

11. **Settlement Effect, Scope, and Approval.** The Parties acknowledge and agree as follows:

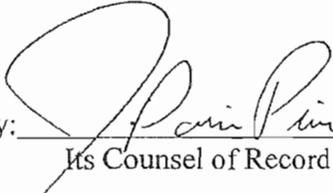
- (a) This Settlement is conditioned upon and subject to its acceptance and approval by the Commission in its entirety without change or condition that is unacceptable to any party. Each term of the Settlement is in consideration and support of each and every other term.
- (b) This Settlement is the result of compromise by the Parties within the settlement process. Neither the making of this Settlement nor any of the individual provisions or stipulations herein shall constitute an admission or waiver by any Party in any other proceeding; nor shall they constitute an admission or waiver in this

proceeding if the Settlement is not accepted by the Commission. The Parties hereto shall not use this Stipulation or the Order provided by this Stipulation as precedent or offer the same as an admission in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. In the event this Stipulation or resulting Order is offered for any purpose prohibited by this Agreement, the Parties agree that objections by the non-offering party are proper.

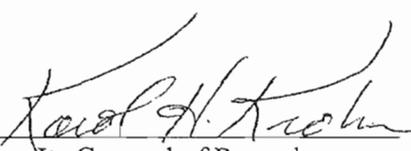
- (c) The communications and discussions among the Parties, along with the materials produced and exchanged during the negotiation of this Settlement, relate to offers of settlement and compromise, and as such, all are privileged and confidential. Such material cannot be used in this or any other proceeding without the agreement of the Parties herein.
- (d) The undersigned represent and agree that they are fully authorized to execute this Settlement on behalf of their designated clients who will thereafter be bound by this Settlement.
- (f) The Parties hereto will either support; or not oppose on rehearing, reconsideration, and/or appeal; an IURC order accepting and approving this Settlement in accordance with its terms.

Accepted and agreed this 10<sup>th</sup> day of September, 2012.

BOONVILLE NATURAL  
GAS CORPORATION

By:  by J.W.H.  
Its Counsel of Record  
attty # 28610-29

INDIANA OFFICE OF UTILITY  
CONSUMER COUNSELOR

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Its Counsel of Record

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