

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

Mays
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JOINT PETITION OF INDIANA-AMERICAN)
WATER COMPANY INC. ("INDIANA-)
AMERICAN") AND THE TOWN OF RILEY,)
INDIANA ("RILEY") FOR APPROVAL OF)
ACCOUNTING AND RATE BASE TREATMENT)
ASSOCIATED WITH THE ACQUISITION BY)
INDIANA-AMERICAN OF RILEY'S WATER)
UTILITY PROPERTIES (THE "RILEY)
SYSTEM") IN VIGO COUNTY, INDIANA IN)
ACCORDANCE WITH THE PURCHASE)
APPROVED BY THE COMMISSION BY ITS)
ORDER DATED APRIL 5, 2011 IN CAUSE NO.)
43855)

CAUSE NO. 44161

APPROVED:

OCT 10 2012

ORDER OF THE COMMISSION

Presiding Officers:

Carolene Mays, Commissioner

David Veleta, Administrative Law Judge

On February 27, 2012, Joint Petitioners Indiana-American Water Company, Inc. ("Indiana-American") and Town of Riley ("Riley" or the "Town") filed their Joint Petition and prepared testimony and exhibits constituting their case-in-chief with the Indiana Utility Regulatory Commission ("Commission") in this matter seeking approval of proposed accounting and rate base treatments related to the proposed acquisition by Indiana-American of Riley's water utility properties (the "Riley System") which was the subject of Cause No. 43855 before this Commission. In Cause No. 43855, the Commission issued an Order dated April 5, 2011, which granted all relief requested associated with the proposed acquisition of the Riley System by Indiana-American, except for the proposed accounting and rate base treatment.

On April 9, 2012, Indiana-American filed a corrected Petitioners' Exhibit PG-4 and on April 30, 2012, Indiana-American filed revisions to Petitioners' Exhibits JCH and JCH-5. On June 4, 2012, the Parties filed a Joint Stipulation and Settlement Agreement (the "Settlement Agreement").

On July 26, 2012, the Presiding Officers issued a Docket Entry requesting additional information from Indiana-American. On August 28, 2012, Indiana-American filed its response to the Presiding Officers July 26, 2012 Docket Entry ("Indiana-American's Response"). On August 29, 2012, Indiana-American filed its supplemental response to the Presiding Officers July 26, 2012 Docket Entry.

On August 30, 2012, pursuant to notice properly published according to law, an evidentiary hearing was convened at 2:30 p.m. at the PNC Center, 101 West Washington Street, Indianapolis, Indiana, Room 222. At the hearing, Indiana-American, Riley, and the OUCC, appeared and participated. No members of the general public were present or sought to testify at the hearing.

The testimony and exhibits of the parties were admitted into evidence and cross examination of the witnesses was waived by all parties involved in the proceeding. The Presiding Officers briefly questioned witnesses from Indiana-American and the Town.

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

1. **Notice and Jurisdiction.** Due, legal and timely notice of the public hearing conducted in this Cause was given by the Commission as required by law. Indiana-American is a “public utility” within the meaning of that term in Indiana Code § 8-1-2-1 and is subject to the jurisdiction of the Commission in the manner and to the extent provided by law. Riley is a municipality located in Vigo County, Indiana, which withdrew from Commission jurisdiction on July 5, 1996 for purposes of rates and charges and financing. Joint Petitioners filed the Joint Petition pursuant to Indiana Code §§ 8-1-2-6 and -12, among others. As a result, the Commission has jurisdiction over Joint Petitioners and the subject matter of this proceeding.

2. **Joint Petitioners’ Characteristics.** Indiana-American is an operating public utility incorporated under the laws of the State of Indiana, with its principal office and place of business at 555 East County Line Road, Greenwood, Indiana. Indiana-American is engaged in the provision of water utility service to the public in and around numerous communities throughout the State of Indiana, including Vigo County. Indiana-American also provides sewer utility service in Wabash and Delaware Counties. Indiana-American owns, operates, manages and controls, plant, property, equipment and facilities for the production, treatment, transmission, distribution and sale of water for residential, commercial, industrial, other public authority, and sale for resale purposes, for the provision of public and private fire protection service and for the provision of sewer service.

Riley owns and operates the Riley System serving approximately 633 individually metered customers in an area southeast of Terre Haute in Vigo County. The Riley System abuts and is interconnected with Indiana-American’s existing distribution system in its Terre Haute (Wabash Valley) Operations. Using water supplied by Indiana-American through a connection in Terre Haute, Riley’s distribution system consists of approximately 11 miles of mains (ranging from 2- to 12-inch), 38 fire hydrants and a 50,000 gallon elevated tank. The Riley System is currently operated by Indiana-American under an Agreement for Operation and Management Services between Riley and Indiana-American dated January 6, 2010.

3. **Relief Requested.** Joint Petitioners requested that the Commission approve accounting and rate base treatments that reflect the full amended purchase price plus transaction costs in net original cost rate base following the closing of the acquisition approved in Cause No. 43855.

4. **Commission’s Findings and Determinations in Cause No. 43855.**

(a) **Relief Granted.** In its Order in Cause No. 43855, this Commission has already found that public convenience and necessity justify the acquisition of the Riley System by Indiana-American; that Indiana-American should be authorized to acquire and operate the Riley System, including the issuance of all necessary licenses, permits and franchises to do so; that Indiana-American’s rates and charges generally applicable in the Terre Haute (Wabash Valley) Operation should apply upon closing; that Indiana-American’s depreciation accrual rates should apply to the

acquired assets; and that Indiana-American should be authorized to encumber the properties comprising the Riley System with the lien of Indiana-American's Mortgage Indenture.

(b) Accounting and Rate Base Treatments. As stated in the Joint Petition in this Cause, the Commission, in its Order in Cause No. 43855, expressed a concern that the appraised value of the Riley System may be overstated. The Commission also held that contributions in aid of construction ("CIAC") must be excluded. As a result of this finding, the Commission subtracted CIAC amounts for a 1985 transmission main thought to have been funded by a grant from the Indiana Department of Commerce and the 2006 developer-contributed mains in the Lakewood Subdivision. The Commission ultimately approved the recording of net original cost rate base of \$216,940, which was considerably less than the proposed purchase price of \$1,025,500 and transaction costs. Since approval of the proposed accounting and rate base treatments was a condition to closing in the purchase agreement, the Joint Petitioners have not consummated the transaction. In this Cause, the Joint Petitioners have proposed a reduced purchase price, which excludes CIAC for the Lakewood Subdivision and have filed testimony responding to the Commission's concerns about the appraisal.

5. Joint Petitioners' Evidence. Mr. Clay G. White, an elected Member and President of the Riley Town Council, testified that because Riley is already a wholesale customer of Indiana-American and does not have its own water plant, it only makes sense to enter into a sale transaction with Indiana-American. Mr. White also noted the need for capital improvements that would require the Town to raise its rates. He stated that, due to a lack of adequate water storage, it would also be necessary for Riley to build an additional water tank. In addition, along with the rate increase for water service, Riley is looking at a substantial sewer rate increase. Accordingly, Riley began looking for alternatives. He testified that Riley decided to sell the water utility due to the Town's lack of time, technical expertise and resources to manage a water utility in the current environment of increasing drinking water regulation.

Having initially made the determination to investigate a sale, Riley retained Hannum, Wagle & Cline to conduct a survey of Riley's utility property, which was completed in April 2008. Riley adopted a resolution appointing Ms. Judith M. Cleland, Mr. Patrick Goodwin and Mr. John T. Newlin to conduct an appraisal to establish a value for the Riley System assets. As required by Indiana Code § 8-1.5-2-4, Ms. Cleland and Mr. Goodwin are registered professional engineers, and Mr. Newlin is a licensed real estate appraiser. The original appraisal was completed in August 2008. (Petitioners' Exhibit PG-2). After the Town Council determined that there were some portions of the water system that were missing from the appraisal, the three appraisers supplemented their earlier report with a valuation of the excluded assets. (Petitioners' Exhibit PG-3). After the revised appraisal was returned, Riley conducted two public hearings. At the conclusion of the second public hearing, the Town Council unanimously adopted an ordinance directing that the utility be sold. After executing the purchase agreement with Indiana-American, Riley and Indiana-American filed the Joint Petition in Cause No. 43855 seeking required Commission approvals.

Mr. White described developments that occurred prior to the proceedings before the Commission in Cause No. 43855. He stated that in November 2009, the operations manager for the Riley System unexpectedly tendered his resignation, effective December 1, 2009. Upon request from the Riley Town Council, Indiana-American agreed to assist in operating the Riley System pursuant to a service agreement. Indiana-American has operated the Riley System for two years

with no compensation. In addition, Riley retained Crowe Chizek & Company to conduct a rate study to determine what the level of rates would need to be if Riley were to continue to own the utility and make the necessary improvements. That report, completed in 2008, recommended a 41% rate increase at that time to build the storage tank and make the required improvements. Mr. White explained that the Town has not yet raised rates based upon this recommendation, but he opined the Town would be forced to raise rates very soon, possibly before closing the sale to Indiana-American.

Mr. White then described developments that have occurred since the Commission's Order in Cause No. 43855. He explained that since that approval was a condition to closing under the purchase agreement, the parties have not closed the transaction. He stated the Town has continued to work with Indiana-American to determine whether they can amend their original purchase agreement to address the concerns raised by the Commission. In addition, Mr. White stated that the operation of the Riley System by Indiana-American without compensation is what has allowed Riley to delay raising its rates. Indiana-American has informed Riley that as of January 1, 2013, Riley must begin paying for Indiana-American's services in operating the Riley System in an amount to be negotiated and only for a short term until Riley can obtain those services elsewhere. Finally, Mr. White stated that the State of Indiana is building a State Road 46 Bypass, which has necessitated the relocation of Riley's transmission main. He explained that the Town did not have the financial resources to relocate its main and so applied for and received a "hardship" grant from the State. Even with the grant, however, Riley is responsible for \$21,240 of the cost of the main relocation, which Mr. White stated the Town could not pay without a rate increase. If the sale transaction does not close, Mr. White expressed his concern that the required rate increase could be significant given that, according to the Crowe Chizek report from 2008, the rates were already too low four years ago and given the addition of the matching portion on the main relocation and the operator charge.

Mr. White described the proposed amendment to the purchase agreement, which would reduce the purchase price by the value of the Lakewood Subdivision developer-installed mains but add \$21,240 for the Town's matching portion of the hardship grant on the State Road 46 Bypass main relocation. He explained that before the parties can amend the purchase agreement, the appraisal and public hearing process must be conducted again. He stated the Town intends to appoint the same three appraisers, with instructions to start with their prior appraisal, assign a value of zero to the Lakewood Subdivision assets and assign a value of \$21,240 for the portion of the main which has been relocated. Assuming the appraisers are comfortable with those instructions, Mr. White stated the Town will proceed to hold the public hearings and adopt an ordinance providing for the sale at the reduced purchase price. Mr. White explained that in an effort to mitigate the confusion among the Town's constituents related to the proposed transaction, the Town will not begin the public process until the Joint Petitioners have received Commission approval of the proposed revised purchase price and proposed accounting and rate base treatment associated therewith. Mr. White reaffirmed that the negotiations with Indiana-American have at all times been conducted at arms length.

Joint Petitioners also filed direct testimony of Patrick Goodwin, one of the three appraisers appointed by the Riley Town Council to determine the just and true value of the Riley System for purposes of the proposed sale to Indiana-American. Mr. Goodwin prepared a report responding to OUCC Witness Margaret Stull's testimony and the Commission's Order in Cause No. 43855 (Petitioners' Exhibit PG-4). Mr. Goodwin's report responded to Ms. Stull's statement that those

portions of the appraisal that represent “contributed plant” should not be considered in the purchase price. He explained that the appraisal was based on all the assets being purchased by Indiana-American and how the assets came to be owned by Riley has no effect on the value of the overall plant. Mr. Goodwin stated that if contributed assets are to be removed from the purchase price based on the appraised value, only those contributed assets from 2006 (Lakewood Subdivision) should be subtracted. He explained that the 1985 improvements were funded with a loan from the Indiana Department of Commerce, not a grant. According to Mr. Goodwin’s report, subtracting the contributed property of Lakewood Subdivision yields an overall valuation of \$905,896. Mr. Goodwin’s report also addressed other concerns raised by the Commission in its earlier Order.

Jeffrey C. Henson, Indiana-American’s Senior Business Development Manager, testified that Indiana-American proposes to acquire the water storage tank, water mains, service lines, meters, hydrants, equipment, real estate, easements and permits and all other assets located within the Riley System that are part of the transmission and distribution system utilized to provide water service to customers, excluding (a) liabilities, contingent or otherwise, (b) customer service connections which are and shall remain the property of the customer, (c) furniture, (d) transportation equipment, (e) tools, shop and garage equipment, (f) communication equipment, (g) certain miscellaneous equipment, (h) cash and accounts receivable, and (i) customer deposits. The assets to be acquired are essentially the same assets which were proposed in Cause No. 43855. He testified that upon closing, Indiana-American would continue operating the Riley System with minimal capital improvements initially. He stated that operational and maintenance activities will be provided by the staff at Indiana-American’s Terre Haute (Wabash Valley) Operation. He noted Indiana-American may install SCADA controls to enable the Riley System to be operated from Terre Haute. Additionally, Mr. Henson stated that customer meters will be converted to radio-read equipment to improve operational efficiency. He noted that currently, Riley’s meter replacement program is essentially non-existent and that other than the meters on the few homes that have been built in the Lakewood Subdivision, all of the meters which Indiana-American will acquire at closing will be older than 15 years.

Mr. Henson described the Riley System as both operationally and financially troubled, stating that since the Town’s initial determination to sell the Riley System prior to Cause No. 43855, the situation facing Riley has grown much worse. He testified that Riley does not have a compensated certified operator and, if the proposed transaction does not close, will need to retain a new certified operator. Mr. Henson explained that since the Joint Petitioners executed the original purchase agreement, Indiana-American has operated the Riley System, including providing meter reading and customer service as well as the testing services and reporting to the Indiana Department of Environmental Management (“IDEM”) typically provided by a certified operator. He explained Indiana-American had commenced operating the Riley System without compensation because it expected to assume complete ownership within a few months thereafter. Despite the Commission’s Order in Cause No. 43855, and the fact that as a result the Joint Petitioners have not closed the sale of the Riley System, Indiana-American continues to operate the Riley System. However, Mr. Henson explained that starting January 1, 2013, Indiana-American will be charging for this service an amount to be negotiated, and will also be providing 90 days notice at that time that Riley needs to obtain those services elsewhere. Mr. Henson opined that the amount Indiana-American will charge for its operational services in the short term will be extremely reasonable. He anticipated that Riley would pay a similar amount just for a qualified operator to conduct the testing and sign the IDEM reports. He stated Riley likely will need staff for the meter reading, since the meter reading is entirely manual. Mr. Henson noted that Riley simply has not been focused on the water

utility because they are also having serious issues with their sewer utility. In addition, as noted by Mr. White, Mr. Henson testified that the \$21,240 investment required for Riley's matching portion of the hardship grant for the State Road 46 Bypass main relocation will be difficult for Riley to fund. Mr. Henson opined that Riley lacks the financial capability to operate a water utility. In addition to financially troubled, Mr. Henson described Riley as operationally troubled. He testified that since Indiana-American has been operating the Riley System, it has discovered numerous valves in the wrong position. Mr. Henson stated Riley also has not been terminating service for non-payment. While these may not seem like significant issues to remedy, Mr. Henson opined that Riley simply does not have the expertise to run the Riley System and because of their financial trouble, they cannot afford that expertise.

Mr. Henson provided testimony on the accounting and ratemaking treatment proposed by Indiana-American in connection with its acquisition of the Riley System. He stated that the revised purchase price is expected to be \$927,140. He indicated that, assuming the Commission grants the requested relief in this Cause, Riley will retain the same three appraisers that it did previously and instruct them to exclude from the appraisal the utility assets contributed by the developer of the Lakewood Subdivision in 2006, estimated to be \$119,600. He stated the appraisers are also expected to add Riley's required \$21,240 investment needed to relocate the water line for the State Road 46 Bypass construction.

Mr. Henson stated that the exclusion of the Lakewood Subdivision assets is based upon the Commission's Order in Cause No. 43855 which concluded that CIAC must be excluded. He testified that he does not believe there are any existing main extension agreements with the developer which would provide for any recoupment of its costs to install those facilities. However, given that the mains were only recently installed, Mr. Henson testified that Indiana-American will reimburse to the developer three times the estimated annual revenue less costs of connection as each new customer connects to these developer-installed mains for new connections occurring within ten (10) years after the closing. He stated that upon closing the transaction, Indiana-American will also make this reimbursement corresponding to five homes which have already been connected. Mr. Henson explained that Indiana-American will make these payments because, had the lines been installed after closing, the developer would have been entitled to such reimbursements.

Mr. Henson explained that the interconnection main constructed in 1985 is not being removed from the purchase price as contributed plant because, through investigation, Riley has determined that this main was funded through a loan from the Indiana Department of Commerce, not a grant as assumed by OUCC Witness Stull in her testimony in Cause No. 43855. Mr. Henson supplied a copy of the Commission's Order dated March 29, 1985 in Cause No. 37658 approving the loan from the Department of Commerce to Riley (Petitioners' Exhibit JCH-4).

The accounting entries proposed by Indiana-American would record the original cost of the Riley System as a debit to Account 101 – Utility Plant in Service and to record all associated accumulated depreciation as a credit to Account 108 – Accumulated Depreciation. The original cost of the Riley System will be the gross cost of the facilities, including adjustments for transaction costs. Petitioners' Exhibit JCH-5 sets forth the proposed journal entry, which shows a recorded net original cost of the Riley System assets as equal to the anticipated revised purchase price (\$927,140) plus estimated transaction costs. Mr. Henson opined that the proposed purchase price is a fair and reasonable price and that because of the statutory procedure involved, such a sale will always be the result of an arm's length negotiation. He stated that the appraised value at the level of

the proposed revised purchase price would represent an average investment per customer of approximately \$1,464, not considering any proration of customer numbers for the few commercial customers served by Riley. Mr. Henson described the local procedures that must be satisfied in order to close if the Commission were to grant the relief requested in this Cause. In addition to the re-engagement of the appraisers and the public hearings described by Mr. White, Mr. Henson noted that voters would have the opportunity following such hearings to request a referendum prior to adoption of an ordinance providing for the transfer. If the Commission first issues an order in this Cause approving the proposed accounting and rate base treatment and assuming no referendum, after adoption of the ordinance, Mr. Henson testified that the Joint Petitioners will execute the new purchase agreement and proceed to close.

Mr. Henson testified that if the transaction does not close, Riley likely would need to implement immediately a rate increase to generate additional funds needed to pay for its share of the State Road 46 Bypass main relocation costs. In addition, Mr. Henson pointed out that the rate increase would need to cover Indiana-American's monthly fee to operate the Riley System on a short-term basis, and, ultimately, the fees of whoever it retains to provide those services going forward. Mr. Henson explained that contract operation is not Indiana-American's business and it is only performing those services for Riley because the Town desperately needs those services and Indiana-American expects to be acquiring full ownership in the coming months. If the transaction does not close, Riley will need to secure those services from another source.

Mr. Henson concluded by explaining that the Joint Petitioners are waiting to conduct the appraisal and undertake the public process for sale of a municipal system until after the Commission issues an Order in this Cause. He stated that the local public process can be expensive, controversial, tedious and, as previously noted by Mr. White, confusing. Further, Mr. Henson pointed out, if a referendum is requested and a special election conducted, the costs could be very significant. Neither Joint Petitioner wishes to undertake the difficult local public process for selling a municipal system if the Joint Petitioners cannot obtain the requested regulatory approval.

6. Settlement Agreement. The Settlement Agreement entered into by Indiana-American and the OUCC in this Cause is attached hereto and incorporated herein by reference. More specifically, the Settlement Agreement provides that upon closing of the acquisition, which this Commission has previously approved by its Order in Cause No. 43855 dated April 5, 2011, Indiana-American should be permitted to book an amount equal to the amended purchase price of \$927,140 plus reasonable transaction costs for net original cost rate base by recording the journal entry set forth in Joint Petitioners' Exhibit JCH-5 (REVISED), effectively allowing Indiana-American to recover a return for ratemaking purposes equal to its weighted cost of capital as applied to the amended purchase price of \$927,140 plus reasonable transaction costs and to recover the same through depreciation expense.

The Settlement Agreement states that the Parties agree that resolution of the individual issues are reasonable for purposes of compromise and as part of the overall settlement.

7. 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 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 ch. 8-1-2, and that such agreement serves the public interest.

As set forth below, the Commission finds that the Settlement Agreement is reasonable and in the public interest and the authority and obligations proposed therein should be approved subject to one modification described below. 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, 1997 Ind. PUC LEXIS 459 (IURC March 19, 1997).

(a) Accounting Treatment. Indiana Code §§ 8-1-2-12 and -14 give the Commission authority over the accounting procedures utilized by public utilities in Indiana. Indiana-American proposes that it be permitted to book an amount for net original cost rate base equal to the amended purchase price plus reasonable transaction costs. This would effectively allow Indiana-American to recover a return for ratemaking purposes equal to its weighted cost of capital as applied to the amended purchase price and to recover through depreciation expense the full amended purchase price. The OUCG agrees with this proposed treatment.

It is appropriate to allow Indiana-American to book as net original cost the amended purchase price (as determined by the appraisers as described in Joint Petitioners’ evidence) plus reasonable transaction costs. Such accounting treatment is supported by Joint Petitioners’ evidence in this Cause and is consistent with our Order in Cause No. 43855. We find that Indiana-American’s proposed accounting and journal entries as described by Mr. Henson in his direct testimony and Petitioners’ Exhibit JCH-5, 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.

(b) Proposal to reimburse the Lakewood subdivision developer. Mr. Henson stated that he is not aware of any existing main extension agreements with the developer which would provide for any recoupment of its costs to install those facilities. Thus, the developer is likely not entitled to any reimbursement of costs incurred to install water infrastructure. Further, the proposed reimbursement does not benefit ratepayers. Therefore, Indiana-American shall not be permitted to recover in rates the cost of reimbursing the Lakewood subdivision developer.

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

1. The Settlement Agreement shall be and hereby is approved in its entirety, subject to the modification in Finding No. 7(b) above.

2. Upon closing of the acquisition, which we have previously approved by our Order in Cause No. 43855 dated April 5, 2011, Indiana-American shall be and is hereby authorized to reflect the acquisition of the Riley System on its books and records as of the closing by making the accounting and journal entries described in Finding No. 7 above.

3. The amended purchase price plus transaction costs shall be reflected as the original cost of the acquired property, as described in Finding No. 7 above, which shall be used for accounting, depreciation and rate base valuation purposes after closing.

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

LANDIS, MAYS AND ZIEGNER CONCUR; ATTERHOLT AND BENNETT ABSENT:

APPROVED: OCT 10 2012

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



Brenda A. Howe
Secretary to the Commission

FILED
June 04, 2012
INDIANA UTILITY
REGULATORY COMMISSION

STATE OF INDIANA

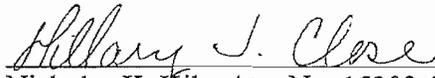
INDIANA UTILITY REGULATORY COMMISSION

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APPROVED BY THE COMMISSION BY ITS)
ORDER DATED APRIL 5, 2011 IN CAUSE NO.)
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INDIANA AMERICAN WATER COMPANY, INC.’S
SUBMISSION OF STIPULATION AND SETTLEMENT AGREEMENT

Petitioner, Indiana-American Water Company, Inc. (“Indiana American”) by counsel hereby submits for approval by the Indiana Utility Regulatory Commission the Stipulation and Settlement Agreement agreed to by Indiana-American and the Office of Utility Consumer Counselor. The signature page to the Stipulation and Settlement Agreement signed by Alan J. DeBoy on behalf of Indiana American will be late-filed, as Mr. DeBoy is temporarily unavailable to sign.

Respectfully submitted,



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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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43855)

STIPULATION AND SETTLEMENT AGREEMENT

Joint Petitioner Indiana-American Water Company, Inc. ("Indiana American") and the Office of Consumer Counselor ("OUCC") enter into this Stipulation and Settlement Agreement. Indiana American and the OUCC agree that the terms and conditions set forth below represent a fair and reasonable resolution of all issues, subject to incorporation into a final order of the Indiana Utility Regulatory Commission ("Commission") without any modification or condition that is not acceptable to Indiana American or the OUCC. Indiana American and the OUCC stipulate as follows:

1. Indiana American and the OUCC stipulate to the issuance by the Commission of a final order in the form attached hereto as Attachment A.
2. Upon closing of the acquisition, which the Commission previously approved by its April 5, 2011 Order in Cause No. 43855, the parties hereto agree that Indiana American

should be permitted to book an amount equal to the amended purchase price (\$927,140), plus reasonable transaction costs for net original cost rate base by recording the journal entry set forth in Petitioners' Exhibit JCH-5 (REVISED), effectively allowing Indiana America to recover a return for ratemaking purposes equal to its weighted cost of capital as applied to the amended purchase price of \$927,140 plus reasonable transaction costs and to recover the same through depreciation expense. As of the entering into of this Stipulation, the entirety of the transaction costs have not been established or disclosed. Accordingly, for purposes of this settlement, the OUCC reserves the ability to dispute the reasonableness of the transaction costs or whether costs qualify as transaction costs in Indiana American's next rate case.

3. Indiana American and the OUCC stipulate that all evidence that has been filed in this Cause with respect to the relief provided herein is admissible in evidence and that such evidence constitutes a sufficient evidentiary basis for a Commission Order approving this Stipulation. Based on the testimony filed to date, Indiana American and the OUCC waive cross-examination of each other's respective witnesses.

4. If this Stipulation is not approved in its entirety by the Commission, Indiana American and the OUCC agree that the terms herein shall not be admissible in evidence or discussed by any party in a subsequent proceeding. Moreover, the concurrence of Indiana American and the OUCC with the terms of this Stipulation is expressly predicated upon the Commission's approval of this Stipulation in its entirety by issuance of the Order in the form set forth in Attachment A without any material modification or any material condition deemed unacceptable by either of them. If the Commission does not approve the Stipulation in its entirety or if the Commission makes modifications to the final order that are unacceptable to either party, the Stipulation shall be null and void and shall be deemed withdrawn upon notice in

writing by either party within 15 days after the date of the final order stating that a modification made by the Commission is unacceptable to the party. In the event the Stipulation is withdrawn, either party may request, and neither party shall oppose, the convening of an attorneys' conference to establish a procedural schedule for the continued litigation of this proceeding.

5. Indiana American and the OUCC stipulate that this Stipulation reflects a fair, just and reasonable resolution and compromise for purpose of settlement, and is agreed upon without prejudice and the ability of any party to propose a different term in future proceedings.

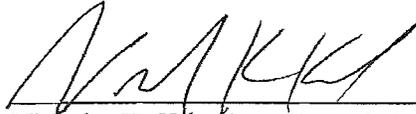
6. As set forth in the Order in *Re Petition of Richmond Power & Light*, Cause No. 40434, p. 10, Indiana American and the OUCC stipulate and request the Commission to incorporate as part of its final order that this Stipulation, or the order approving it, not be cited as precedent by any person or deemed an admission by any party of any other proceeding except as necessary to enforce its terms before the Commission, or any court of competent jurisdiction on these particular issues. This Stipulation is solely the result of compromise in the settlement process. Both Indiana American and the OUCC have entered this Stipulation solely to avoid further disputes and litigation with the attended inconvenience, risks and expenses.

7. The undersigned represent and stipulate that they are fully authorized to execute this Stipulation on behalf of the respective parties, who will be bound thereby.

Respectfully submitted,

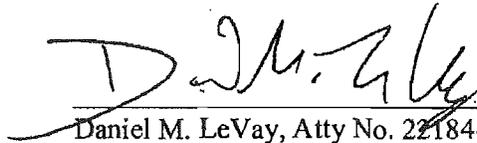
Indiana-American Water Company, Inc.

Alan J. DeBoy, President



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