

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF INDIANA-AMERICAN WATER)
COMPANY, INC., FOR APPROVAL OF (1))
EXPENDITURES FOR IMPROVEMENTS TO)
PETITIONER'S INFORMATION TECHNOLOGY)
SYSTEMS THROUGH THE DESIGN,)
DEVELOPMENT AND IMPLEMENTATION OF THE)
BUSINESS TRANSFORMATION PROGRAM, (2))
DEFERRAL FOR FUTURE RECOVERY OF COSTS)
WHICH WOULD OTHERWISE BE EXPENSED AND)
(3) THE INCLUSION OF THE BUSINESS)
TRANSFORMATION PROGRAM ASSETS AND)
DEFERRED EXPENSES IN PETITIONER'S RATE)
BASE IN FUTURE CASES.)

CAUSE NO. 44059

APPROVED:

DEC 19 2012

ORDER OF THE COMMISSION

Presiding Officers:

Carolene Mays, Commissioner

Aaron A. Schmoll, Senior Administrative Law Judge

On August 19, 2011, Indiana-American Water Company, Inc. ("Petitioner," "Company," or "Indiana-American") filed its Petition seeking Commission approval of expenditures for improvements to its information technology ("IT") systems through the design, development and implementation of a multi-year Business Transformation ("BT") program to replace and upgrade its information technology systems. On November 23, 2011, Indiana-American filed the direct testimony and exhibits constituting its case in chief.

In response to the Commission's December 6, 2011 Docket Entry seeking a procedural schedule, on December 16, 2011, Petitioner filed its Motion for Establishment of Procedural Schedule. Following discussions between counsel and the Presiding Administrative Law Judge, due to the timing of the evidentiary hearing, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its Motion to Establish Procedural Schedule ("Motion") in this Cause on January 4, 2012. The procedural schedule in this Cause was adopted by Docket Entry dated January 6, 2012. On April 12, 2012, Indiana-American Water Company, Inc. Industrial Group (the "Industrial Group") filed its Petition to Intervene in this proceeding, which was granted at the evidentiary hearing in this Cause. On May 9, 2012, the OUCC prefiled the testimony of Margaret A. Stull, Senior Utility Analyst. On May 24, 2012, Indiana-American filed its rebuttal testimony and exhibits.

Pursuant to notice published as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, a public evidentiary hearing in this Cause was held at 9:30 a.m. EDT on June 7, 2012 in Judicial Courtroom 222, PNC Center, Indianapolis, Indiana. Petitioner, the OUCC and the Industrial Group appeared and

participated at the hearing, and the Petitioner's and OUCC's pre-filed evidence was offered and admitted in evidence without objection. No other parties or members of the general public appeared. Pursuant to instructions from the Presiding Administrative Law Judge at the evidentiary hearing, the OUCC filed a late filed exhibit on June 8, 2012.

On July 27, 2012, Petitioner filed its Notice of Potential Settlement and Motion for Suspension of Post-Hearing Schedule, which was granted by Docket Entry dated August 6, 2012. On August 22, 2012, an Attorneys' Conference was held to discuss further procedural schedule matters. On October 3, 2012, Petitioner, the OUCC and the Industrial Group filed a Stipulation and Settlement Agreement along with supporting testimony from Petitioner. A further evidentiary hearing was held on October 17, 2012 to receive the Settlement and supporting testimony.

The Commission, having considered the evidence of record and the applicable law, now finds:

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

2. **Petitioner's Characteristics.** Petitioner is a public utility incorporated under the laws of the State of Indiana. It is engaged in the business of rendering water utility service to the public in and around numerous communities and counties throughout the State of Indiana. Petitioner also provides sewer utility service in Wabash and Delaware Counties. Petitioner owns, operates, manages and controls plant, property, equipment and facilities within and adjacent to the communities where Petitioner serves, which are used and useful for the collection, purification, pumping, distribution and furnishing of water to the public in such areas and for providing sewer utility service.

3. **Relief Requested.** Petitioner seeks approval of expenditures for the design, development and implementation of the Business Transformation program and the associated BT assets, authorization to defer as a regulatory asset certain costs associated with Business Transformation, and confirmation that such approved program assets will be included in Petitioner's rate base in future rate cases once they have been placed in service. As a part of American Water Works Company, Inc.'s ("American Water") comprehensive review and analysis of the state of its IT systems, American Water identified a need for replacements and upgrades to applicable IT system components. The term "BT program" refers to American Water's efforts to meet these needs by implementing new integrated systems to allow Petitioner to continue providing high quality, reliable service to its customers and to improve the efficiency and quality of that service. The BT program focuses on (1) improving or redesigning key business processes, (2) improvements in how Petitioner captures, uses and maintains critical business information, and (3) simplification, consolidation and upgrades to Petitioner's computer applications and enhancements to its technology infrastructure. As a result of the BT program, American Water has elected to implement an integrated enterprise software platform. American Water has selected SAP as its new core software solution platform and Accenture as the solution

implementer. On April 15, 2011, American Water's Business Transformation Team completed the Blueprint phase of the program, consisting of analyzing, planning and designing the new systems. The BT program is currently proceeding through the implementation phase, which includes detailed design, building, testing and deployment. The new systems and processes are anticipated to be deployed in two phases. The Enterprise Resource Planning ("ERP") portion of the program (which includes human resources, finance and accounting, supply chain, and procurement management) will be implemented in Phase 1 and deployed in August 2012. The Enterprise Asset Management ("EAM") portion of the program (which includes the management of asset lifecycles including the design, construction, commissioning, operations, maintenance and decommissioning/replacement of plant, equipment and facilities as well as work management for both customer service field work and Transmission & Distribution system work) and Customer Information System ("CIS") portion of the program (which includes all billing and personal data pertaining to American Water's customers) will be implemented in Phase 2 and deployed in 2013.

For ratemaking purposes, Petitioner proposes that all capitalized expenditures associated with the BT program be treated as construction work in progress until the projects are in service. Petitioner seeks confirmation that the BT program assets will be included in Petitioner's rate base for ratemaking purposes in future rate cases once they have been placed in service.

4. Description of Proposed Improvements. Andrew Twadelle, Vice President of Business Transformation for American Water Works Service Company, Inc. ("Service Company") provided direct testimony introducing the BT program and summarizing the BT implementation schedule. Mr. Twadelle also provided cost estimates for BT.

Mr. Twadelle testified that over the life of the BT program, there will be four primary areas of focus: (1) Replace legacy systems near the end of useful lives; (2) Promote operating excellence, efficiency, and economies of scale; (3) Enhance the customer experience; and (4) Increase employee effectiveness and satisfaction. He explained that the scope of the BT program includes a range of core functional areas, including: human resources, finance and accounting, purchasing and inventory management, capital planning, cash management, and customer and field services.

As Mr. Twadelle described, the core of the BT program comprises three projects: ERP, EAM, and CIS. ERP includes human resource, finance and accounting, supply chain, and procurement management. EAM includes the management of asset lifecycles including the design, construction, commissioning, operations, maintenance and decommissioning/replacement of plant, equipment and facilities as well as work management for both customer service field work (service turn-ons, leak inspections, etc.) and Transmission & Distribution system work. CIS includes all billing and personal data about our customers, including billing rates, water consumption, associated charges, meter information, and the strategy for managing and nurturing our interactions with our customers. Mr. Twadelle stated that through these projects, Indiana-American will enhance its ability to continue delivering high-quality water and wastewater services to its customers.

According to Mr. Twadelle, the capital cost of BT to Indiana-American is estimated to be \$31 million, which is based upon a total estimated BT program cost of \$306.7 million to

American Water. He stated the costs of BT are being allocated to each of the American Water regulated utilities based on the percentage of their customer counts to the overall regulated utility customer count of American Water, as provided for in the Service Company Agreement.

Mr. Twadelle stated that the BT program is necessary because Indiana-American's technology has become antiquated and its IT systems need to be replaced. He described the comprehensive review and analysis of American Water's IT systems conducted in 2008-2009, which identified the investments necessary to replace and upgrade applicable system components. A copy of the comprehensive review and analysis was included in Petitioner's Confidential Exhibit AT-1. Mr. Twadelle testified that the review revealed that Indiana-American's existing IT systems are customized, stand-alone systems for use by specific departments or functions within a company, and the lack of systems integrations has resulted in isolated information "silos." Mr. Twadelle explained that the JD Edward system (used for accounting, procurement and human resources functions) was first implemented for American Water in 1997 and Indiana-American in 1998 and stated it is well beyond its useful life. He stated ECIS (the customer service and information system) was first implemented for American Water in 2001 and Indiana-American in 2004 and is approaching the end of its useful life. He stated that the current IT systems will not be adequate to support Indiana-American's growing customer and business requirements. Although Indiana-American's requirements still are being met, Mr. Twadelle stated that the systems are not integrated and have limited automation and functionality. At this point, he stated, American Water has fully maximized the software and systems used by its operating subsidiaries by implementing significant customizations or workarounds, in part, to meet requirements and expectations that the original software was not equipped to support. He stated that because the software has such a large number of customizations, system upgrades would be cost prohibitive and still would result in limited functionality. He stated that when customizations were too costly or impractical, manual processes were put in place that by their nature introduce redundancy and inconsistency of data, require additional manual steps, and limit information availability.

Mr. Twadelle stated that over the last 10 to 15 years more has changed than just technology—customer expectations have also shifted. He stated that today's customers expect more functionality than Indiana-American's existing IT systems can readily support (e.g., internet billing, budget billing, self-service inquiry, and appointments for repair calls). He testified that BT will enable Indiana-American to meet those expectations.

Mr. Twadelle identified the key service providers selected by American Water for the BT program through competitive bidding processes. He stated American Water had selected SAP as its new core software solution platform. He stated the SAP software solution is a fully integrated software application that offers better real-time functionality to meet American Water's operating utilities' current and future business requirements. He described the "enterprise" software concept, which was pioneered by SAP, and integrates functions and departments across a company into a single technology system, allowing all business processes to operate in a common database sharing the information simultaneously across all functions in real time. Mr. Twadelle stated that Accenture was selected as the solution implementer for the BT program and is responsible for working closely with American Water operating utilities and the BT teams to realize the full potential of the new technology implementation by helping to confirm that American Water's business processes are aligned with the new software. He stated Accenture

and SAP will provide support and guidance and share their skills and knowledge about the new systems with American Water throughout the implementation process.

In his direct testimony, Mr. Twadelle explained that the BT program had completed the Blueprint phase (analysis, planning and design of the new systems) and was proceeding through the Implementation phase, including detailed design, building, testing and deployment. He stated the new enterprise systems and processes are anticipated to be deployed in waves from 2012 (ERP) through 2013 (EAM and CIS). He testified that employees of Indiana-American have had, and continue to have, extensive involvement in the recommended improvements to the BT program and have actively participated in various roles throughout the process.

Mr. Twadelle then described the anticipated benefits of BT to Indiana-American. He stated BT will provide Indiana-American with an integrated IT platform across all functions and departments, allowing all business processes to share information in real time. He stated BT will enable Indiana-American to bridge information gaps, reduce redundancies and opportunities for error, and provide Indiana-American a more powerful tool to effectively manage its business. He stated the ERP system will enable Indiana-American to automate processes, replace inefficient manual processes, improve workflow, and enhance back-office operations (e.g., accounting, procurement, and human resources). In addition, he testified, ERP will provide improved purchase order processing, improved tracking of vendor contracts, increased human resources focus on value-added activities such as training and ensuring compliance to human resources policies and practices. He stated that the EAM module is integrated into the ERP system and will enable Indiana-American to manage information about its physical assets more effectively. He explained that the CIS supports all processes involving direct customer contact. He described how customer information will be captured and stored in a centralized database that is integrated with other systems throughout the Company. Mr. Twadelle identified anticipated customer benefits, such as greater functionality (e.g., group billing and budget billing), opportunities for enhanced bill presentment options, greater first contact resolution due to greater automation in the billing process and redirected resources providing the opportunity to resolve customer requests in a timely manner, and the ability to introduce tools that would reduce or eliminate manually intensive processes and allow employees to work more efficiently.

Gregory P. Roach, Indiana-American's Manager of Rates, provided direct testimony supporting the Company's request for preapproval for the BT program and addressing the allocation of BT costs to Indiana-American and the appropriate accounting and rate treatment for the BT assets once they are placed in service. He reiterated Indiana-American's proposed accounting and rate treatment: that all costs incurred in connection with BT be capitalized, and that these capitalized expenditures associated with the multi-year BT program be treated as construction work in progress until the various projects that comprise BT are in service. At that time, he stated, these assets would be placed into "plant-in-service" as appropriate components of rate base.

Mr. Roach stated that Indiana-American's allocated share of the overall BT budget for all of American Water of \$306.7 million is \$31 million, based on a 9.06 percent customer count allocation and an allowance for a 10% contingency factor. He stated that Indiana-American's cost allocation corresponds to Indiana-American's share of total, system-wide regulated utility customers at year end, through each year of the project, 2009-2014. He described in detail how

the cost allocation factor of 9.06% was derived and provided an annual budget of the proposed cost for the BT program by functional system for American Water for each of the years 2009 through 2014. He then provided a proposed breakdown of the BT costs allocated to Indiana-American for each year, 2009 through 2014, by functional item and in total.

Mr. Roach explained that because of the size and importance of the BT effort to Indiana-American, the Company is seeking preapproval of the expenditures. He testified that Petitioner is treating the BT program costs as capital expenditures because they are both significant and are being incurred over an extended period of time and therefore it would be problematic to expense the costs as incurred. He explained that expensing the costs would require a more significant increase to the revenue requirement for the years the expenditures were made than if they were given rate base treatment. By using Petitioner's proposed rate base treatment, Mr. Roach stated the costs will be spread over the useful life of the project and be recovered on a levelized basis, allowing recovery of the costs over the useful life of the BT assets, which provides a better matching of the revenue with the expense and more equitable ratemaking than seeking to recover the costs over the shorter period during which they are initially incurred. He asserted this approach more properly assigns the cost responsibility to the customers who will actually benefit from the implementation of the assets over their useful lives as opposed to the singular year in which the systems were first placed into service.

Mr. Roach identified four distinct areas of cost related to the BT project: (1) physical assets, (2) software licenses, (3) capitalized labor costs required to design, modify the base software package as required, develop transition routines to transfer historical data from existing systems, modify business processes to be compatible with the new software, implement the go-live use of the software, and train employees on the use of the new software, and (4) initial planning studies. With respect to the hardware portion, Mr. Roach explained that the hardware will be purchased by Laurel Oak Properties, leased to the Service Company, and a percentage of the leasing expense will be distributed to each of the regulated utilities based on the percentage of their customer base to the overall regulated utility customer base of American Water. He stated the capital lease charges will include the equivalent of depreciation expense plus a finance cost. He stated that a portion of the SAP software license fees will be billed to Indiana-American by the Service Company, but capitalized on the books of Indiana-American because Indiana-American is an authorized licensee under the license agreements. He asserted this will be more efficient since the vendor will not need to issue individual invoices to each participating regulated utility. He stated the software is an appropriate utility plant asset under generally accepted accounting principles ("GAAP") and National Association of Regulatory Utility Commissioners ("NARUC") accounting guidelines and should be capitalized by operating companies. Mr. Roach stated the capitalized labor and overheads portion of the BT costs are being charged to the utility plant asset created at each regulated utility, including Indiana-American, consistent with past practice and the Service Company Agreement between Indiana-American and the Service Company. He testified that the Company has requested that the proportionate share of the costs related to the BT planning studies be deferred and accounted for as capitalized costs and will be capitalized as part of the BT costs when it is placed in service. He stated this is consistent with the accounting for a preliminary engineering or planning study associated with a particular project.

Mr. Roach testified that the anticipated life cycle of the BT assets is ten years, and therefore the appropriate annual depreciation rate for the BT assets is ten percent. He noted Indiana-American requested approval of a ten year depreciation accrual rate in its rate case in Cause No. 44022.

5. **OUCC's Evidence.** The OUCC submitted the prefiled testimony of Ms. Stull as its evidence in this Cause. Ms. Stull stated that there is not adequate support for preapproval of expenditures for the BT program and the OUCC disagrees with rate base treatment of certain costs included in Petitioner's estimate of BT program expenditures.

She contended that the BT program is not the type of project that the preapproval statute (Ind. Code 8-1-2-23) was designed to address.

Ms. Stull testified that the OUCC does not dispute that an appropriately allocated portion of the cost of the BT program may be recovered through Indiana-American's rates. She argued, however, that Petitioner did not provide support for a determination that the ultimate cost of the BT program is reasonable or that the method of allocating those costs to Indiana-American is reasonable and equitable. She expressed concern that the total costs of the entire project are not known with certainty because, according to Ms. Stull, the design of the BT program is not complete. She argued that until the project is complete, the reasonableness and prudence of the project, as it is ultimately implemented, cannot be determined. She also asserted that Petitioner has not provided adequate support in its Case-in-Chief for its proposed allocation methodology. Finally, she took issue with the fact that none of the costs of the BT program are being allocated to non-regulated affiliates at this time.

6. **Petitioner's Rebuttal.** Mr. Roach responded in rebuttal testimony to Ms. Stull's testimony. He began by pointing out the areas where there appears to be consensus between the OUCC and Petitioner. He noted that nowhere does the OUCC question the decision to implement BT or any aspect of BT. He pointed out that the OUCC has not claimed any component of BT is unnecessary to Indiana-American's business or that the cost is excessive. Mr. Roach stated that the OUCC's objection to preapproval of the BT investment is largely based on the concept that these assets are not the type of assets that have previously been the subject of preapproval petitions. He pointed out, however, that the OUCC has not expressed concerns as to the two questions this Commission has stated must be addressed in a preapproval case:

When faced with such a request, the first question we must ask is whether an expenditure of any amount is reasonably necessary to assure reasonable and adequate service. If so, we must proceed to the second question: what amount reasonably needs to be invested?

Indiana-American Water Co., Inc., Cause No. 43899, p. 21 (IURC 10/14/2010). He stated that the OUCC has conceded the first question when Ms. Stull stated in her testimony "the OUCC agrees with the basic concept that Petitioner participate in the development of software for its operations and that it is appropriate to include an allocated cost of that participation in Petitioner's rates." Mr. Roach asserted that given that the systems BT is designed to replace are well beyond their useful lives and lack the technological capabilities needed in today's environment, it is clear that the BT Project meets the standard of being "reasonably necessary to

assure reasonable and adequate service.” He asserted that the OUCC’s position urges the Commission to do exactly what the Commission said is inappropriate in *American Suburban Utilities, Inc.*, Cause No. 41254, p. 14 (IURC 4/14/1999), which is to simply deny the request in its entirety.

Indiana-American Witness Twadelle addressed, on rebuttal, the OUCC’s allegations that: the design of the project is not entirely complete; the total costs of the BT project are not sufficiently known; Indiana-American does not adequately support its proposed allocation methodology; and none of the costs of the BT project are being allocated to non-regulated affiliates at this time. He began by explaining that ERP, EAM and CIS are all fully designed and built and are currently in the testing stage to verify that the solutions are delivering on program objectives so that the final stage, Deploy, is seamless. He stated the ERP system is expected to be deployed by August 2012, while CIS and EAM will be deployed to six Indiana-American affiliates in March 2013, to Indiana-American and six other affiliates in June 2013, and to two more affiliates in September 2013. He affirmed that the BT project is proceeding both on time and on budget. He stated the BT internal labor costs are on budget and the external labor costs have been negotiated for a fixed price plus expenses not to exceed a percentage of the fixed price. He stated the BT software has been procured and the costs are known, and the BT hardware costs have been negotiated. He stated this is year 4 of the 5-year enterprise-wide BT project and the overall estimated project costs remain within approximately 10% of the original BT project budget. Mr. Twadelle testified that the BT project costs are known within a reasonable degree and range of certainty. He stated American Water has carefully managed the costs of the BT project in an effort to provide its customers with the greatest value at a reasonable cost.

Mr. Twadelle explained that the BT project costs are allocated to each of the American Water regulated utilities based on the percentage of their customer counts to the overall regulated utility customer count of American Water, as provided for in the Service Company Agreement.

7. Stipulation and Settlement Agreement and Testimony in Support Thereof. Indiana-American, the OUCC and the Industrial Group entered into a Stipulation and Settlement Agreement dated October 3, 2012 (“Settlement Agreement”). A copy of the Settlement Agreement is attached hereto as Exhibit A and incorporated herein by reference.

Petitioner’s Witness Roach offered testimony in support of the Settlement Agreement. Mr. Roach explained that for purposes of settling certain issues raised with respect to Business Transformation and deferring until a later rate case certain contested issues, the Parties agreed that the terms and conditions of the settlement set forth in the Settlement Agreement represent a fair and reasonable resolution of all the issues in this Cause. He stated Petitioner, OUCC and Industrial Group entered into good faith discussions regarding the issues in the case and were able to independently conclude that the terms contained in the Settlement Agreement represented a reasonable resolution to the issues presented in this Cause.

Mr. Roach described the key terms of the Settlement Agreement. He testified the OUCC, the Industrial Group and Petitioner have stipulated that the Commission should issue an order authorizing the deferral for future recovery of those costs associated with Business Transformation that would be recorded as expense pursuant to GAAP, more specifically

Statement of Position (“SOP”) 98-01. The estimated amount of such costs allocated to Indiana-American is \$6,800,000. The Parties have stipulated that the deferred costs should be amortized over ten (10) years and recovery of the costs should only be allowed to the extent such recovery is approved in a subsequent rate case. Mr. Roach testified that the question of recovery of a return on the unamortized balance has been reserved by the Parties for a future rate case. In addition, Mr. Roach described that under the stipulation agreed to by the Parties all remaining costs associated with Business Transformation should be recorded in Account No. 340300-Computer Software. Finally, Mr. Roach explained that the OUCC and the Industrial Group also agreed that they would not oppose Indiana-American’s Petition, filed July 27, 2012 and docketed as Cause No. 44230, requesting approval of (1) post-in service allowance for funds used during construction associated with the cost of Business Transformation and (2) deferral of depreciation expense of Business Transformation and amortization of the estimated \$6,800,000 in costs to be deferred under Paragraph 4 of the Settlement Agreement, so long as such authority is granted only to the extent that Business Transformation is ultimately approved in rate base (or, in the case of deferral of amortization of the estimated \$6,800,000 in deferred expenses described above, recovered through amortization) by the Commission. The Parties stipulated that the rate used for post-in service AFUDC will be Indiana-American’s weighted cost of long term debt in effect at the time of accrual.

Mr. Roach explained that the Parties have stipulated that all other issues raised in this Cause, including, without limitation, prudence, cost allocation, and inclusion in rate base, will be reserved for the first general rate case filed by Indiana-American after Business Transformation is placed in-service.

Finally, Mr. Roach testified that if the Settlement Agreement is not approved by the Commission and Indiana-American’s requested relief is not granted, then Indiana-American would be forced to file its next general rate case earlier than it otherwise would have solely for the purpose of addressing immediate earnings erosion associated with the timing of the in-service date of Business Transformation. He stated the Settlement Agreement will allow the next rate case to be timed based upon other circumstances independent of the placement in service of Business Transformation.

8. Commission Discussion and Findings.

A. **Settlement.** We have previously discussed our policy with respect to settlements:

Indiana law strongly favors settlement as a means of resolving contested proceedings. *See, e.g., Manns v. State Department of Highways*, (1989) Ind., 541 N.E.2d 929, 932; *Klebes v. Forest Lake Corp.*, (1993), Ind. App. 607 N.E.2d 978, 982; *Harding v. State*, (1992), Ind. App., 603 N.E.2d 176, 179. A settlement agreement “may be adopted as a resolution on the merits if [the Commission] makes an independent finding, supported by substantial evidence on the record as a whole, that the proposal will establish ‘just and reasonable’ rates.” *Mobil Oil Corp. v. FPC*, (1974), 417 U.S. 283, 314 (emphasis in original).

Indianapolis Power & Light Co., Cause No. 39938, p. 7 (IURC 8/24/95); see also *Commission Investigation of Northern Ind. Pub. Serv. Co.*, Cause No. 41746, p. 23 (IURC 9/23/02). This policy is consistent with expressions to the same effect by the Supreme Court of Indiana. See, e.g., *Mendenhall v. Skinner & Broadbent Co.*, 728 N.E.2d 140, 145 (Ind. 2000) (“The policy of the law generally is to discourage litigation and encourage negotiation and settlement of disputes”); *In re Assignment of Courtrooms, Judge’s Offices and Other Facilities of St. Joseph Superior Court*, 715 N.E.2d 372, 376 (Ind. 1999) (“Without question, state judicial policy strongly favors settlement of disputes over litigation”).

Nevertheless, a settlement agreement will not be approved by the Commission unless it is supported by probative evidence. 170 IAC 1-1.1-1 7. 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). Any settlement agreement that is approved by the Commission “loses its status as a strictly private contract and takes on a public interest gloss.” *Id.* (quoting *Citizens Action Coalition v. PSI Energy, Inc.*, 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)). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusion that the Settlement Agreement is reasonable, just, and consistent with the purpose of Indiana Code § 8-1-2-1 *et seq.*, and that such agreement serves the public interest.

We note that the Settlement Agreement includes provisions indicating it is not severable and shall be null and void if not accepted by the Commission in its entirety unless otherwise agreed to by the Parties and that the terms of the Settlement represent a fair, just and reasonable resolution and compromise. The Parties further contend that the evidence presented in this Cause, including the evidence offered in the record at the June 7, 2012 evidentiary hearing, as well as Petitioner’s prefiled testimony in support of the Settlement Agreement filed October 3, 2012, constitutes substantial evidence sufficient to support this Agreement and provides an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of this Settlement Agreement, as filed.

Based upon our review of the Settlement Agreement and the evidence in the record supporting same, we find the Settlement Agreement should be approved. We further find that Petitioner should be authorized to defer for future recovery — to the extent recovery is approved in a subsequent rate case — those SOP 98-01 costs associated with BT, estimated to be approximately \$6,800,000, which deferred costs should be amortized over ten (10) years. Petitioner has requested in Cause No. 44230 that commencement of the amortization of the deferred costs be delayed until the date of the first rate order including Business Transformation in Petitioner’s rates. We further find that all remaining costs associated with BT should be recorded by Petitioner in Account No. 340300-Computer Software. Consistent with the Settlement Agreement, all other issues raised in this proceeding shall be reserved for the first general rate case filed by Indiana-American after BT is placed in service. With regard to future

citation of the Settlement Agreement, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, approved March 19, 1997, and that neither the Settlement Agreement nor this Order shall be cited as precedent by any person or deemed an admission by any party in any other proceeding except as necessary to enforce its terms before the Commission, or any court of competent jurisdiction on these particular issues.

B. Confidentiality. Petitioner filed a motion for protective order, supported by an affidavit showing the documents to be submitted to the Commission were trade secret information within the scope of Ind. Code §§ 5-14-3-4 and 24-2-3-2. The Presiding Officers issued a Docket Entry on December 13, 2011 finding such information to be confidential on a preliminary basis, after which such information was submitted under seal. We find all such information is confidential pursuant to Ind. Code §§ 5-14-3-4 and 24-2-3-2, and is exempt from public access and disclosure by the Commission.

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

1. The Settlement Agreement shall be and hereby is approved in its entirety.
2. Petitioner shall be and hereby is authorized to defer for future recovery those costs associated with Business Transformation that would be recorded as expense pursuant to generally accepted accounting principles, namely, SOP 98-01, estimated to be approximately \$6,800,000, which deferred costs should be amortized over ten (10) years.
3. Petitioner shall be and hereby is authorized to record all other costs associated with Business Transformation in Account No. 340300-Computer Software.
4. The information filed by Petitioner in this Cause pursuant to a Motion for Protective Order is deemed confidential pursuant to Ind. Code §§ 5-14-3-4 and 24-2-3-2, is exempt from public access and disclosure by Indiana law, and shall be held confidential and protected from public access and disclosure by the Commission.
4. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: **DEC 19 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

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FILED

OCT 03 2012

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

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STIPULATION AND SETTLEMENT AGREEMENT

Indiana-American Water Company, Inc. ("Indiana American" or "Petitioner"), the Indiana Office of Utility Consumer Counselor ("OUCC") and Indiana-American Industrial Group ("Industrial Group") (collectively, the "Settling Parties"), by their respective counsel, respectfully request the Commission to approve this Stipulation and Settlement Agreement ("Stipulation") set forth herein. The Parties, stipulate and agree as follows:

1. Petitioner filed its Petition initiating this Cause on August 19, 2011. Petitioner prefiled the testimony and evidence constituting its Case-in-Chief on November 28, 2011; the OUCC prefiled its Case-in-Chief on May 9, 2012, and Petitioner prefiled its Rebuttal on May 24, 2012. An evidentiary hearing was held on June 7, 2012, at which time all prefiled evidence was admitted into the record and the witnesses cross-examined.

2. In brief summary, Petitioner seeks in this Cause an Order approving expenditures pursuant to Ind. Code § 8-1-2-23 for the design, development and implementation of its Business

Transformation Program, which will replace and upgrade its information technology systems (“Business Transformation”); authorizing deferral as a regulatory asset of certain costs in connection with Business Transformation that would otherwise be expensed; and confirming that the Business Transformation assets and deferred expenses will be included in rate base in future rate cases. The OUCC considers it premature to determine whether Business Transformation should be approved or what amount should be approved. Among other issues, the OUCC raises concerns about whether Business Transformation qualifies for preapproval under Ind. Code § 8-1-2-23, questions the proposed cost allocation methodology for the program and opposes the request to include in rate base costs the OUCC said should be expensed (estimated to be \$6,800,000). OUCC Witness Stull agreed during cross-examination that the remaining costs of Business Transformation should be recorded in Uniform System of Accounts No. 340300 – Computer Software and that, at a minimum, the costs of Business Transformation that would otherwise be recorded to expense should be deferred for regulatory purposes. The Industrial Group did not take a testimonial position but actively participated at the proceeding and in discussions leading to this Stipulation.

3. For purposes of settling certain issues raised with respect to Business Transformation and deferring until a later rate case certain contested issues, the Parties agree that the terms and conditions set forth herein represent a fair and reasonable resolution subject to incorporation into a Final Order (the form of which is Attachment 1) of the Indiana Utility Regulatory Commission (“Commission”) without any modification or condition that is not acceptable to the Parties.

4. The OUCC, the Industrial Group and Petitioner stipulate and agree that the Commission should issue an order authorizing the deferral for future recovery of those costs

associated with Business Transformation that would be recorded as expense pursuant to Generally Accepted Accounting Principles, more specifically Statement of Position (“SOP”) 98-01. The estimated amount of such costs to be allocated to Petitioner is \$6,800,000. These deferred costs should be amortized over ten (10) years. Recovery of these costs should be allowed only to the extent such recovery is approved in a subsequent rate case. The question of recovery of a return on the unamortized balance is reserved for a future rate case.

5. The Settling Parties agree that all remaining costs associated with Business Transformation should be recorded in Account No. 340300-Computer Software. However, whether Petitioner will be permitted a return on or of such costs shall be reserved for a future rate case.

6. The parties reserve the right to audit all costs associated with Business Transformation and other costs of the utility or its affiliates to confirm that such costs have not already been included in the revenue requirement established in an earlier rate case and thus already embedded in rates or otherwise recovered from ratepayers, and such audit rights include, but are not limited to, information concerning the source of funds used by Indiana-American, its parent, and/or affiliates to finance Business Transformation.

7. On July 27, 2012, Indiana American filed a Petition (Cause No. 44230) seeking approval of (1) post-in service allowance for funds used during construction associated with the cost of Business Transformation and (2) deferral of depreciation expense of Business Transformation and amortization of the costs deferred under Paragraph 4 of this Stipulation. Subject to the caveat that such authority is granted only to the extent that Business Transformation is ultimately approved in rate base (or, in the case of deferral of amortization of

deferred expenses under Paragraph 4 of this Stipulation, recovered through amortization) by the Commission, the OUCC and the Industrial Group will not oppose Petitioner's grant of approval of (1) post-in service allowance for funds used during construction associated with the cost of Business Transformation and (2) deferral of depreciation expense of Business Transformation and amortization of the costs deferred under Paragraph 4 of this Stipulation. The rate used for post-in service AFUDC will be Indiana American's weighted cost of long term debt in effect at the time of accrual. The OUCC and Petitioner agree to work toward a settlement and agreed order in Cause No. 44230 consistent with this Stipulation, otherwise acceptable to both parties, and otherwise including language that prohibits use of the settlement in Cause No. 44230 by either party in a subsequent proceeding as an expression of precedent by the Commission or as an admission by either party except to enforce terms reached in that cause.

8. All other issues related to Business Transformation shall be reserved for the first general rate case filed by Indiana American after Business Transformation is placed in-service. The list of such issues includes but is not necessarily limited to Business Transformation costs, cost recovery, prudence review, cost allocation, and inclusion of Business Transformation in rate base. Nothing in this Settlement is intended to constitute the parties' waiver of their right to challenge such issues, and the parties expressly reserve the right to raise challenges to those issues in a subsequent rate case. Such reservation of right expressly includes the right to challenge future recovery of any cost on the ground that it has already been recovered.

9. Indiana American shall submit to the other Settling Parties a report every six months beginning with the thirtieth day after the issuance of an order in this case through and until the BT Project is completed and placed in service in Indiana of actual costs incurred and

allocated to Indiana American. The report shall indicate implementation costs by account number.

10. The Settling Parties stipulate and agree that the information filed by Petitioner in this Cause pursuant to its Motion for Protective Order should be deemed confidential pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 24-2-3-2, is exempt from public access and disclosure by Indiana law, and should be held confidential and protected from public access and disclosure by the Commission.

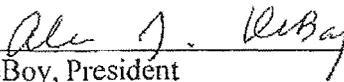
11. If this Stipulation is not approved in its entirety by the Commission, then the Parties stipulate that the terms herein shall not be admissible in evidence or discussed by any party in a subsequent proceeding. Moreover, the concurrence of the Parties with, or withholding of any objection to, the terms of this Stipulation is expressly predicated upon the Commission's approval of the Stipulation in its entirety without any material modification or any material condition deemed unacceptable by any Party. If the Commission does not approve the Stipulation in its entirety, then the Stipulation shall be null and void and be deemed withdrawn, upon notice in writing by any Party within fifteen (15) days after the date of the Final Order that any modifications made by the Commission are unacceptable to it. In the event the Stipulation is withdrawn, the Parties will request that an Attorneys' Conference be convened to establish a procedural schedule for the balance of this proceeding.

12. The Parties stipulate that this Stipulation reflects a fair, just, and reasonable resolution and compromise for the purpose of settlement. As set forth in the Order in *Re Petition of Richmond Power & Light*, Cause No. 40434, p. 10, the Parties stipulate and request Commission to incorporate as part of its Final Order that this Stipulation, or the Order approving

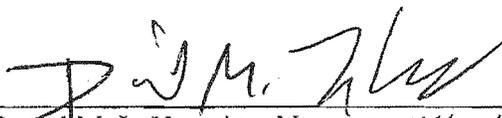
it, not be cited as precedent by any person or deemed an admission by any party in any other proceeding except as necessary to enforce its terms before the Commission, or any court of competent jurisdiction on these particular issues. Should any party attempt to cite this agreement as an admission (except to enforce terms reached) or attempt to cite the resulting order as precedent through an offer into evidence or request for administrative notice, the Settling Parties agree such offer should be denied. This Stipulation is solely the result of compromise in the settlement process. Each of the Parties hereto has entered this Stipulation solely to avoid further disputes and litigation with the attendant inconvenience, risks and expenses.

13. The Parties represent and stipulate that they are fully authorized to execute this Stipulation on behalf of their designated clients who will be bound thereby.

Respectfully submitted,



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