

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE BOARD OF DIRECTORS FOR)
UTILITIES OF THE DEPARTMENT OF PUBLIC)
UTILITIES OF THE CITY OF INDIANAPOLIS, AS)
SUCCESSOR TRUSTEE OF A PUBLIC CHARITABLE)
TRUST, D/B/A CITIZENS THERMAL, REQUESTING)
(1) APPROVAL OF AN AMENDMENT TO THE)
STEAM SERVICE AGREEMENT WITH INGREDION)
INCORPORATED; AND (2) A FINDING THAT)
CERTAIN INFORMATION IS CONFIDENTIAL AND)
EXEMPT FROM PUBLIC ACCESS REQUIREMENTS)

CAUSE NO. 44234

APPROVED:

DEC 19 2012

ORDER OF THE COMMISSION

Presiding Officers:

Larry S. Landis, Commissioner

Loraine L. Seyfried, Chief Administrative Law Judge

On August 14, 2012, the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis, as successor trustee of a public charitable trust, d/b/a/ Citizens Thermal (“Petitioner” or “Citizens”), filed with the Indiana Utility Regulatory Commission (“Commission”) its Petition in this Cause requesting the Commission to find reasonable and approve a Third Amendment to the Agreement for Use of Industrial Steam Service (“Third Amendment”) between Citizens and Ingredion Incorporated (“Ingredion”). The proposed Third Amendment will extend the expiration of the Agreement to February 15, 2018.

The Petition also requested a finding that certain information to be submitted in this proceeding is confidential and exempt from public access requirements. In support of its request for confidential treatment of that information, Petitioner submitted the Affidavit of Jill A. Phillips, which was attached to the Petition as Exhibit 1. The Presiding Officers issued a docket entry on August 24, 2012 granting Petitioner’s request for confidential treatment on a preliminary basis. On August 15, 2012, Petitioner prefiled the testimony of William B. Petty and Jill A. Phillips constituting its case-in-chief. On October 22, 2012, the OUCC filed a Notice of Intent Not to Prefile Testimony.

Pursuant to notice as provided by law, proof of which was incorporated into the record and placed in the Commission’s official files, a public evidentiary hearing was held on November 15, 2012, at 1:30 p.m. in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, Petitioner and the OUCC appeared by counsel, and Petitioner’s prefiled testimony and exhibits were admitted into the record without objection. No members of the general public appeared.

Based on the applicable law and the evidence of record, the Commission now finds:

1. **Notice and Jurisdiction.** Notice of the public evidentiary hearing held on November 15, 2012, was given as required by law. Petitioner is a municipal steam utility subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Indiana, including certain sections of the Public Service Commission Act, as amended. The Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. **Petitioner's Steam Business.** Petitioner is a municipal steam utility that maintains its principal offices and provides steam service in Marion County, Indiana. It owns, operates, manages and controls plant and equipment used for the production, distribution and furnishing of steam utility service to the public. Petitioner provides steam service to customers in the City of Indianapolis through steam production and distribution facilities purchased in November 2000 from Indianapolis Power and Light Company ("IPL"). Petitioner's purchase of those facilities from IPL was approved by the Commission in its October 4, 2000, Order in Cause No. 41716.

3. **Petitioner's Testimony.** Mr. William B. Petty, Petitioner's Manager of Market Development, provided an overview of Petitioner's history of providing steam service to Ingredion and the events that led to the Third Amendment.

He testified that Citizens began providing regulated steam utility service when it purchased IPL's Perry K. steam production plant and other thermal energy assets in November 2000. Ingredion (formerly National Starch LLC) is a long-time customer of the steam utility. The initial Agreement between Citizens and National Starch and Chemical Corporation was approved by the Commission on April 3, 2002. In January 2008, Petitioner and Indopco, Inc. d/b/a National Starch and Chemical Company (as successor to National Starch and Chemical Corporation with respect to the Agreement) entered into a First Amendment to the Agreement, which was approved by the Commission on April 16, 2008, and amended the Agreement to extend the date by which it would expire to February 15, 2011. In June 2010, Petitioner and National Starch, LLC (as successor to Indopco, Inc. d/b/a National Starch and Chemical Company with respect to the Agreement), entered into a Second Amendment to the Agreement, which was approved by the Commission on March 17, 2011, and amended the Agreement to extend the date by which it would expire to February 15, 2013.

Mr. Petty also discussed the reasons that led Petitioner and Ingredion to seek an amendment to the Agreement. He testified that Ingredion is a very important customer to Petitioner because the substantial and stable revenues generated by Ingredion's usage benefits Petitioner's system and its other steam customers. Additionally, Mr. Petty explained, the facilities to be served under the Third Amendment are a significant source of employment, including a substantial number of jobs, as well as other economic benefits to the City of Indianapolis and State of Indiana.

Mr. Petty testified that Ingredion is the leading global supplier of specialty starches to the food industry and has an international presence, including manufacturing, operations, and sales offices in over 40 countries and employs more than 11,000 individuals worldwide. He explained that because Ingredion is a strategically important customer to Petitioner and as a result of the

public charitable trust's interest in the Indianapolis community generally, Petitioner wants to ensure the Ingedion facilities it serves maintain their presence in Indianapolis and continue to use Petitioner's steam service.

Mr. Petty further explained that under the Agreement, Ingedion's steam service may be interrupted and supplemented with lower pressure steam. This allows greater flexibility during system outages and benefits other high pressure steam customers who cannot be interrupted. He also noted that the Third Amendment imposes a minimum annual usage requirement in order for Ingedion to receive a fifty percent reduction in the maximum measured demand used for billing purposes.

Ms. Jill A. Phillips, Manager, Rates & Regulatory Affairs, testified in support of the rates and charges set forth in the Third Amendment. She stated the rates and charges are sufficient to allow Petitioner to recover its incremental costs of providing service to the Ingedion facilities, and will also provide a contribution to the recovery of Ingedion's fixed costs. Ms. Phillips explained that Petitioner's business is capital intensive where non-fuel costs are primarily fixed and thus do not vary substantially with customer usage. Consequently, Ms. Phillips stated, if Ingedion were to stop purchasing steam from Petitioner, very little, if any, non-fuel costs would be avoided. As a result, loss of Ingedion as a steam customer would shift those fixed costs to remaining customers and increase their rates. Ms. Phillips concluded that the rates and charges established in the Third Amendment are reasonable, just and economically advantageous to Petitioner, Ingedion and Petitioner's other customers.

Finally, Ms. Phillips testified regarding Petitioner's request that certain information submitted in this proceeding is confidential and exempt from public access requirements. In her affidavit, Ms. Phillips stated the information for which confidential treatment is requested is limited to certain financial calculations that would be useful to Petitioner's or Ingedion's competitors or third parties with whom Petitioner or Ingedion may negotiate similar agreements. She explained that disclosure of the financial calculations could provide leverage to other parties in contract negotiations, and could also be used by Petitioner's competitors to structure competing offers or Ingedion's competitors to evaluate Ingedion's energy costs. For those reasons, Ms. Phillips asserted the information designated as confidential in this proceeding has actual and independent economic value from not being known to, or readily ascertainable by, persons with whom Petitioner and Ingedion transact business or compete against.

4. Commission Discussion and Findings. The Commission has previously found that special contracts, such as the Third Amendment, as well as the rates, charges and terms and conditions for service they contain, are lawful if they are reasonable and just, as well as non-discriminatory. *See, Board of Directors for Util. of the Dep't of Public Util. of the City of Indianapolis*, Cause No. 43448 at 6 (July 9, 2008); *Board of Directors for Util. of the Dep't of Public Util. of the City of Indianapolis*, Cause No. 43303 at 5 (July 25, 2007). We also have recognized the importance of special contracts that help assure a utility's retention of a large customer and the preservation of that customer's contribution to the utility's fixed cost of recovery. *See, Indiana Gas Company, Inc.*, Cause No. 43298 at 25 (Feb. 13, 2008).

Our review of the Third Amendment and testimony filed in this proceeding indicates that the rates to be charged under the Third Amendment, which will help assure Petitioner's ability to retain the steam load required to serve the Ingredion facilities, will allow Petitioner to recover its incremental costs of providing service to those facilities and provide a contribution to the recovery of Petitioner's fixed costs. The evidence also shows that Petitioner's provision of service under the Third Amendment will not alter any of Petitioner's existing rates or contracts and will not adversely affect the adequacy or reliability of service, and in fact by its terms will allow greater flexibility during system outages, provided to Petitioner's other customers. The Commission, therefore, finds the Third Amendment and the rates, charges, terms and conditions contained therein are reasonable and just, as well as non-discriminatory, and should be approved.

5. **Confidential Information.** On August 24, 2012, the Presiding Officers made a preliminary finding that certain information described in Petitioner's Motion for Protection of Confidential and Proprietary Information ("Confidential Information") should be treated as confidential in accordance with Ind. Code §§ 5-14-3-4 and 8-1-2-29. Upon review of the Confidential Information submitted pursuant to the Presiding Officers' preliminary determination, the Commission confirms its prior preliminary finding. The Commission concludes that Petitioner has met its burden to demonstrate that the Confidential Information contains trade secrets, as that term is defined in Ind. Code § 24-2-3-2. Accordingly, the Confidential Information submitted to the Commission is exempt from the public access requirements of Ind. Code §§ 5-14-3-4 and 8-1-2-29 and shall continue to be held as confidential by the Commission.

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

1. The Third Amendment and the rates, charges, terms and conditions contained therein are reasonable and just, as well as non-discriminatory, and are hereby approved.
2. Petitioner is hereby authorized and directed to implement the rates, charges, terms and conditions of the Third Amendment, as executed by Petitioner and Ingredion.
3. The Confidential Information submitted in this Cause is determined to be confidential trade secret information and shall continue to be exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29.
4. In accordance with Ind. Code § 8-1-2-70, within twenty (20) days from the date of this Order, Petitioner shall pay to the Secretary of the Commission the following itemized charges, as well as any additional costs that were incurred in connection with this Cause:

| | |
|---------------------|------------------|
| OUCC charges: | \$ 489.43 |
| Commission charges: | \$ 640.50 |
| Legal Advertising: | <u>\$ 104.48</u> |
| TOTAL | \$1,234.41 |

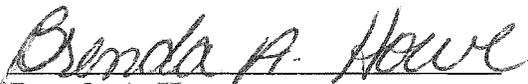
5. This order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, LANDIS AND ZIEGNER CONCUR; MAYS NOT PARTICIPATING:

APPROVED:

DEC 19 2012

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



Brenda A. Howe

Secretary to the Commission