

# ORIGINAL

Commissioner	Yes	No	Not Participating
Huston	√		
Freeman	√		
Krevda	√		
Veleta	√		
Ziegner	√		

## STATE OF INDIANA

### INDIANA UTILITY REGULATORY COMMISSION

**PETITION OF COMMUNITY NATURAL GAS )  
CO. INC. FOR AUTHORITY TO CHANGE ITS ) CAUSE NO. 45690  
RATES, CHARGES, TARIFFS, RULES, AND )  
REGULATIONS ) APPROVED: OCT 12 2022**

### ORDER OF THE COMMISSION

#### **Presiding Officers:**

**Stefanie N. Krevda, Commissioner**

**Jennifer L. Schuster, Senior Administrative Law Judge**

On March 4, 2022, Community Natural Gas Co., Inc. (“Petitioner” or “Community”) filed its Petition and case-in-chief seeking authority to change its existing rates, charges, tariffs, rules, and regulations. Also on March 4, 2022, Petitioner and the Indiana Office of Utility Consumer Counselor (“OUCC”) (collectively the “Settling Parties”) filed a Partial Stipulation and Settlement Agreement (the “Partial Settlement”) that reflected the Settling Parties’ agreement on the return on equity (“ROE”) and rate design. On March 7, 2022, Petitioner filed its workpapers.

On May 25, 2022, the OUCC filed its case-in-chief. The OUCC filed testimony corrections and a substitution of witness on July 15, 2022.

On June 30, 2022, the Settling Parties filed a second Stipulation and Settlement Agreement (the “Settlement Agreement”), along with settlement testimony, settlement schedules and a settlement proof, incorporating the terms of the Partial Settlement and resolving all remaining disputed issues.

The Commission held an evidentiary hearing in this Cause on July 21, 2022 at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the OUCC were present and participated through counsel. The testimony and exhibits of Petitioner and the OUCC were admitted into the record without objection.

Based upon the evidence of record and applicable law, and the evidence presented by the Parties, the Commission now finds:

**1. Notice and Jurisdiction.** Due, legal, and timely notice of the public evidentiary hearing in this Cause was given and published as required by law. Petitioner is a public utility as defined by Ind. Code § 8-1-2-1. Pursuant to Ind. Code §§ 8-1-2-1 and 8-1-2-42.7, the Commission has jurisdiction over this Petitioner and the subject matter of this Cause.

**2. Petitioner’s Characteristics.** Petitioner is a corporation organized and existing under Indiana law. Petitioner’s principal office is located at 933 West Third Street, Mount Carmel, Illinois. Petitioner is a public utility currently providing natural gas service to its customers in both

rural and municipal areas in Gibson, Posey, Dubois, Spencer, Greene, Monroe, Pike, Owen, Sullivan, and Warrick counties in Indiana. Petitioner serves approximately 7,553 customers.

**3. Existing Rates, Test Year, and Relief Requested.** Petitioner's current base rates are those established by the Commission's Order in Cause No. 45214 on December 18, 2019. The Presiding Officers' docket entry of March 24, 2022 established the test year as the 12-month period ending September 30, 2021, adjusted for changes that are fixed, known, and measurable and occurring within 12 months following the end of such test year. Petitioner's cutoff date to determine the used and useful nature of its utility plant and the value of its rate base is October 31, 2021. In its case-in-chief, Petitioner sought to increase its current operating revenue by 13.25%, which represents an additional \$1,254,764 of operating revenue over pro forma rate revenue as of the test year.

**4. The Parties' Evidence.**

**A. Petitioner's Case-in-Chief.** Dean J. Kieffer, Petitioner's president, testified about his meeting with Petitioner's board of directors about the appropriateness of filing a base rate case. He indicated that he had various discussions with Community's attorneys, LWG CPAs & Advisors ("LWG"), and Petitioner's consultant Kerry Heid prior to initiating this base rate case. Mr. Kieffer also indicated that he had discussed Petitioner's need for increased rates and the potential for settlement with the OUCC prior to filing.

Mr. Kieffer testified that the requested rate increase was necessary for several reasons. First, he said that Community is experiencing increased costs to keep and retain employees, particularly in light of the ongoing COVID-19 pandemic. He testified that Community needs to add employees to keep up with new and changing regulations, and operating and maintenance ("O&M") expenses have increased. He also stated that Petitioner is not currently earning the allowed return from its last rate case, and Petitioner has made significant investments in rate base since its last rate case and is not earning a return on those necessary capital investments.

Mr. Kieffer opined that the fair value of Petitioner's utility plant would exceed the original cost reflected in Petitioner's books and records and stated that the utility plant is used and useful in providing service to Petitioner's customers. Mr. Kieffer testified about ROE and rate design and opined that the Partial Settlement had reached a reasonable compromise and is in the public interest.

Bonnie J. Mann, Certified Public Accountant and Principal of LWG, explained that she reviewed Petitioner's books and records as of the test year and concluded that Petitioner was not covering its operating expenses or earning a reasonable return on its rate base. She indicated that her conclusions on adjustments to Petitioner's test year are reflected in her accounting schedules, which are attached to her direct testimony as Petitioner's Exhibit 2, Attachment BJM-1. Based on the review performed by LWG, Ms. Mann testified that Petitioner should be given the opportunity to earn \$1,465,295 annually in net operating income. Based on such net operating income and Petitioner's operating expenses, Ms. Mann opined that Petitioner's adjusted operating revenue should be increased by \$1,254,764.

Earl L. Ridlen III, Certified Public Accountant, Financial Advisor, and Managing Partner of LWG, described his work for Petitioner, including his analysis of Petitioner's books and records with a focus on a return on equity ("ROE") capital. Mr. Ridlen testified that Petitioner and the OUCC had settled the ROE issue and agreed upon a return of 10.1% on Petitioner's equity investments, which he opined was reasonable in light of his testimony in other small gas rate cases.

Kerry A. Heid, Professional Engineer and utility rate consultant for Petitioner, stated that he did not prepare a cost of service study for this proceeding because Petitioner and the OUCC agreed each rate class should receive an across-the-board revenue increase. Mr. Heid sponsored Petitioner's Exhibit 4, Attachment KAH-2, which is the derivation of the proposed rate class revenues. He explained the determination of Petitioner's proposed rates and charges and demonstrated that the proposed rates generate the appropriate level of revenue. Mr. Heid also sponsored a new tariff for gas service, Petitioner's Exhibit 4, Attachment KAH-3, which contains a comparison of present to proposed margins by rate schedule and by rate component. Mr. Heid discussed the impacts of Petitioner's proposed revenue allocations and rates and charges upon residential service customers. He also sponsored Petitioner's Exhibit 4, Attachment KAH-5, which is Petitioner's proposed Tariff for Gas Service tariff sheets.

**B. OUCC's Case-in-Chief.** Mark H. Grosskopf, Senior Utility Analyst in the OUCC's Natural Gas Division, testified about the OUCC's alternative proposed increase in Petitioner's annual operating revenue of \$524,081. Mr. Grosskopf addressed various adjustments associated with federal and state income taxes, and the utility receipts tax ("URT") repeal. With respect to federal and state income taxes, Mr. Grosskopf stated that he agrees with Petitioner's methodology and explained that changes to the amount of these taxes are a result of changes in pro forma revenues and expenses sponsored by OUCC witnesses. He explained that he adjusted Petitioner's revenue requirements to remove URT in accordance with HEA 1002.

Heather R. Poole,<sup>1</sup> Director of the OUCC's Natural Gas Division, described the OUCC's proposed adjustments to property taxes. She made adjustments to fully depreciated items and personal use of company transportation assets for a total adjustment to depreciation expense of \$67,798. She explained she agreed with Petitioner's proposed utility plant in service through October 31, 2021 and accumulated depreciation through September 30, 2021. Ms. Poole also proposed amounts of additional accumulated depreciation through October 31, 2021, working capital, materials and supplies, and gas storage for Petitioner's rate base. The result is a total original cost rate base of \$17,288,283.

Ms. Poole also testified in support of the Settling Parties' Partial Settlement on the cost of equity capital. She opined that the Partial Settlement is consistent with prior orders from the Commission in other small gas utility base rate cases. Ms. Poole disagreed with the date of the capital structure, the exclusion of Community's ongoing long-term line of credit in the amount of \$1,250,000, and with Petitioner's policy for refunding customer deposits. She discussed her recommendation of an investigation into customer deposits. Finally, she discussed her recommended a 7.95% weighted average cost of capital ("WACC") which resulted from her recommended capital structure.

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<sup>1</sup> Ms. Poole adopted the testimony previously filed by Scott O. Viefhaus.

LaCresha N. Vaulx, Utility Analyst in the OUC's Natural Gas Division, made adjustments to operations and maintenance expenses for lobbying fees, energy efficiency contributions from the Normal Temperature Adjustment ("NTA"), advertising expense, cell phone expense, meals expense, and vehicle, gas, and maintenance expense. She also recommended Petitioner put written policies in place for cell phone, travel and meals, and vehicle use.

Linda M. Devine, Utility Analyst in the OUC's Natural Gas Division, proposed an adjustment to Petitioner's rate case expense estimate, suggesting a reduction to rate case expense based on the absence of detailed billing and the reduced litigation due to partial settlement. She proposed an unamortized portion of prior rate case cost of \$54,167 and recommended an amortization period of five years. She recommended that Petitioner file a revised tariff if new rates have not gone into effect at the end of the five-year amortization period to remove rate case expense from Petitioner's base rates. She explained that, in the event that Petitioner has new base rates that go into effect before the end of the five-year amortization period, any remaining rate case expenses not amortized at the time of Petitioner's next rate case order may be included in that proceeding. She proposed adjustments to costs for participating in Cause No. 43995 S1 and outside service costs.

Mohab M. Noureldin, Utility Analyst in the OUC's Natural Gas Division, recommended adjustments to payroll expense, payroll tax, and pension contributions. He explained that, although he removed a confidential amount from the pro forma payroll expense for the new hire, if Petitioner filled the new position by the rebuttal date, the amount should be included for recovery.

Brien R. Krieger, Utility Analyst in the OUC's Natural Gas Division, opined that the cost-of-service study performed in Cause No. 44768 was sufficient and confirmed that no material changes in Petitioner's customer classes have occurred since the last cost of service study was performed. He testified that Petitioner has proposed that any rate increase authorized be applied across the board to all volumetric portions of its rates with the monthly customer charge for each class, except the residential rate class, left unchanged. He stated that the OUC agreed to an increase to the residential class monthly customer charge to \$14.02 from \$13.00. He recommended that Petitioner's proposals and the compromise reflected in the Partial Settlement on cost of service be approved. He also recommended Petitioner provide the OUC and Commission with a revenue proof and updated Tariff sheets after the Commission's final order is issued.

**C. Settlement Agreement and Settlement Testimony.** The settlement testimony of Petitioner's witnesses Mr. Kieffer and Ms. Mann and OUC witness Mr. Grosskopf all recommended that the Commission approve the Settlement Agreement. Mr. Kieffer generally described the Settlement Agreement and discussed the specific terms of the agreement. He stated that the Settlement Agreement recognizes the Settling Parties' agreement that Community's proposal as set forth in its case-in-chief, including the Partial Settlement, should be approved except as modified by the Settlement Agreement.

Mr. Kieffer explained that the Settling Parties agreed to include the \$1.25 million long-term line of credit in Community's capital structure at a cost of 2.35%. He stated that, while Community believes the use of a line of credit as a cash management tool is not the same as long-term debt used to finance rate base, Community recognized the concerns raised by the OUC.

Mr. Kieffer noted that the Settlement Agreement addresses the OUCC's concerns with Community's cell phone expense and its recommendation that Community develop a written cell phone use policy. He explained that Community's employees are frequently out in the field or "on call" and need to have reliable means to stay in contact with the company and with customers and contractors. Under the Settlement Agreement, Community has agreed to develop a written policy regarding employee use of company-provided cell phones and will provide the OUCC with a copy of that policy for comment within 90 days of the final order.

Mr. Kieffer stated that the Settling Parties agreed to remove 50% of the test year level of meal expenses or \$1,367. He stated that Community recognizes the concerns raised by the OUCC and agrees to develop a written policy regarding expensing of meals, including better documentation of the subject matter of meetings for which meals are expensed. Community will provide the OUCC with a copy of that policy for comment within 90 days of the final order.

Mr. Kieffer testified that, in the Settlement Agreement, the Settling Parties agreed to Community's proposed level of vehicle expense. He also explained that Community has also agreed to develop a written policy regarding employee use of company-provided vehicles and will provide the OUCC with a copy of that policy for comment within 90 days of the final order.

Mr. Kieffer discussed the OUCC's concerns with management salary levels. In order to eliminate the source of OUCC's concerns going forward, Community's board of directors eliminated incentive compensation and adjusted base salaries. He explained that, based on settlement discussions with the OUCC, the Settling Parties agreed that other salaries may be adjusted as proposed by Community. He said that pension expense and payroll tax expense will remain at the amounts proposed by Community.

According to Mr. Kieffer, the Settling Parties have agreed to set rate case expense associated with this case to \$200,000, which is the same level of rate case expense approved in Community's last rate case on December 18, 2019 in Cause No. 45214. The Settling Parties have also agreed to amortize rate case expense over five years and have agreed to allow Community to seek recovery of any unamortized portion of rate case expense in its next base rate case. Community has agreed to file a revised tariff if new rates have not gone into effect at the end of the five-year amortization period to remove rate case expense from Petitioner's base rates. Regarding the OUCC's past concerns about the level of detail provided in Community's legal invoices, the Settlement Agreement provides that, in subsequent rate cases, Community should provide greater detail regarding legal expenses by matter to facilitate the OUCC's review of outside expenses.

Mr. Kieffer discussed how the OUCC noted that Community incurred expenses for public awareness materials that will be used for more than one year and had recommended that this expense be amortized over the period for which those materials will be used. He stated that Community does not object to that concept, but has different types of materials produced in different years to address its public awareness needs. For this reason, the Settling Parties agreed to review three years' worth of invoices and then include the average annual level of expense in the revenue requirement.

Mr. Kieffer testified that the Settling Parties agreed to the OUCC's calculation of the additional accumulated depreciation through October 31, 2021 and the OUCC's calculation on materials and supplies and gas in storage amounts. He said that the Settling Parties recognized that both the OUCC and Petitioner used the same methodology to calculate working capital. He said the total original cost rate base is \$17,309,920. The following table details the calculation for the settled upon total cost rate base:

**Original Cost Rate Base**

Utility Plant in Service as of September 30, 2021		\$27,801,372
Increase in rate base through October 31, 2021		\$769,501
Less: Accumulated Depreciation as of September 30, 2021		(\$11,941,590)
Less: Additional Accumulated Depreciation through October 31, 2021		(\$84,065)
<b>Net Utility Plant in Service</b>		<b>\$16,545,218</b>
Plus:		
Working Capital	\$2,599,983/8	\$324,998
Materials and Supplies		\$283,019
Gas in Storage		\$156,685
<b>Total Original Cost Rate Base</b>		<b>\$17,309,920</b>

The Partial Settlement addressing cost of equity capital and cost of service issues are incorporated into the Settlement Agreement. The following table details the settled upon capital structure incorporating the Partial Settlement on cost of equity and the resulting WACC:

**Capital Structure as of October 31, 2021**

<b>Description</b>	<b>Amount</b>	<b>Percent of Total</b>	<b>Cost</b>	<b>Weighted Cost</b>
Common Equity	\$12,097,695	76.43%	10.10%	7.72%
Regulatory Liability Associated with Cause No. 43995 S1	475,974	3.01%	0.00%	0.00%
Line of Credit	1,250,000	7.90%	2.35%	0.19%
Customer Deposits	96,035	0.61%	6.00%	0.04%
Deferred Tax	1,908,037	12.06%	0.00%	0.00%
<b>Total</b>	<b>\$15,827,741</b>	<b>100.00%</b>		<b>7.95%</b>

Mr. Kieffer opined that Commission approval of the Settlement Agreement is in the overall public interest because the Settlement Agreement addresses many of the concerns of the OUCC while still providing Community with sufficient revenues to reliably operate the utility. He stated that the Settlement Agreement is the result of extensive, good faith, arm's-length negotiations between the Settling Parties. The following table details the settled upon revenue requirement and revenue increase:

<b>Revenue Requirement</b>	<b>Amount</b>
Total Original Cost Rate Base	\$ 17,309,920
Rate of Return	7.95%
Authorized Net Operating Income	\$ 1,376,136
Net Operating Income at Pro-Forma Present Rates	\$ 798,398
Increase in Revenues Required	\$ 577,738
Effective Incremental Revenue NOI Conversion Factor	133.753%
Increase in Revenue Requirement (Based on Net Original Cost Rate Base)	\$ 772,745

Mr. Kieffer testified that the Settling Parties agreed to the OUCC's calculation of the additional accumulated depreciation through October 31, 2021 and the OUCC's calculation on materials and supplies and gas in storage amounts. He said that the Settling Parties recognized that both the OUCC and Petitioner used the same methodology to calculate working capital. He said the total original cost rate base is \$17,309,920. The Partial Settlement addressing cost of equity capital and cost of service issues are incorporated into the Settlement Agreement.

Ms. Mann sponsored Petitioner's Exhibit 6, Attachment BJM-1S, which contains a revised set of accounting schedules based on the terms agreed to in the Settlement Agreement.

Mr. Grosskopf also testified in support of the Settlement Agreement, stating that the Settlement Agreement resolves all issues between the Settling Parties. He discussed the issues resolved in the Settlement Agreement, including capital structure and rate base and O&M expenses such as cell phone expense, meal expense, vehicle and transportation expense, payroll and salary expense, rate case expense, outside services expense, and advertising and public awareness expense. He also discussed the cost of equity and rate design agreed to by the Settling Parties prior to Community's Petition in this Cause. He discussed other expense adjustments to lobbying fees, energy efficiency contributions under the NTA agreement, Cause No. 43995 S1 expenses, depreciation expense, property tax, URT, other taxes and fees, and state and federal income taxes. He also discussed the Partial Settlement's stipulation that the rate increase be applied across the board and a residential class monthly customer charge increase from \$13.00 to \$14.02 with no increase to the monthly customer charge for other rate classes.

Mr. Grosskopf opined that the Settlement Agreement is in the public interest. He explained that the base rates and charges resulting from the Settlement Agreement lessen the impact of Community's case-in-chief rate request to captive customers, while also providing Community with an opportunity to earn the revenues it needs to continue to provide safe and reliable natural gas service. He stated that the Settlement Agreement is consistent with the General Assembly's affordability policy in Ind. Code § 8-1-2-0.5 and acknowledges customer affordability by, for example, extending the amortization periods for certain expenses and reducing depreciation expense for fully depreciated assets. He said that the Settlement Agreement also reduces the risk and expense of litigation of multiple issues and concluded that the OUCC recommends the Commission approve the Settlement Agreement in its entirety without modification.

**5. Commission Discussion and Findings.** Settlements presented to the Commission are not ordinary contracts between private parties. *U.S. Gypsum, Inc. v. Ind. 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 Coal. of Ind., Inc. 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 Coal.*, 664 N.E.2d at 406.

Further, any Commission decision, ruling, or order, including the approval of a settlement, must be supported by specific findings of fact and sufficient evidence. *U.S. Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coal. of Ind. v. Pub. Serv. Co. of Ind., Inc.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission’s procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Before the Commission can approve the Settlement, the Commission must determine whether the evidence in this Cause sufficiently supports the conclusion that the Settlement is reasonable, just, and consistent with the purpose of Ind. Code ch. 8-1-2 and that such agreement serves the public interest.

The Settlement Agreement and the Partial Settlement, which is incorporated into the final Settlement Agreement, resolve all contested issues between the Settling Parties in this case. Both Petitioner and the OUCC submitted testimony in support of the Settlement Agreement. Based on our review of the evidence of record as described above, we find the Settlement Agreement is reasonable, in the public interest, and is therefore approved.

The Settling Parties agree that the Settlement Agreement should not be used as precedent in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. With regard to future citation of the Settlement Agreement, we find that the Settlement Agreement and our approval of it should be treated in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434 (March 19, 1997).

**6. Residential Bill Impact.** According to Petitioner’s July 20, 2022 docket entry response, the bill of a residential customer using 100 therms per month will be \$122.89, which is 10.13% greater than the current monthly bill of such a customer, which is \$111.59.

**7. Confidentiality.** On March 22, 2022, Community filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information (“Motion”) in this Cause, which was supported by the Affidavit of Mr. Kieffer, showing that certain information to be submitted to the Commission contained trade secret information as defined in Ind. Code § 24-2-3-2 and should be treated as confidential in accordance with Ind. Code §§ 5-14-3-4 and 8-1-2-29. The Presiding Officers issued a docket entry on April 7, 2022 finding this information should be held confidential on a preliminary basis, after which the information was submitted under seal. After reviewing the information, we find this information qualifies as confidential trade secret information pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29. This information shall be held as confidential and protected from public access and disclosure by the Commission and is exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29.



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

1. The Partial Settlement and the Settlement Agreement are both approved and incorporated by reference into this Order.

2. Petitioner shall be authorized to increase its operating revenues exclusive of the cost of gas by \$772,745 and shall be authorized to earn a net operating income of \$1,376,136 on a rate base of \$17,309,920.

3. Petitioner shall file tariffs under this Cause as described herein and in the Settlement Agreement and Partial Settlement. Such tariffs shall become effective upon approval by the Commission's Energy Division.

4. Petitioner shall provide a copy of its new written policies on personal cell phone use, personal use of company vehicles, and meal expenses to the OUCC for comment within 90 days of this Order.

5. If Petitioner does not file another base rate case and receive approval of new rates by the end of the five-year amortization period, Petitioner shall file a revised tariff under this Cause to remove rate case expense from Petitioner's base rates.

6. The information submitted under seal in this Cause pursuant to Community's Motion is determined to be confidential trade secret information pursuant to Ind. Code §§ 5-14-3-4 and 24-2-3-2 and shall continue to be held as confidential and exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29.

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

**HUSTON, FREEMAN, KREVDA, VELETA, AND ZIEGNER CONCUR:**

**APPROVED: OCT 12 2022**

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

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**Dana Kosco  
Secretary of the Commission**

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**PETITION OF COMMUNITY NATURAL GAS )  
CO., INC. FOR AUTHORITY TO CHANGE ITS )  
RATES, CHARGES, TARIFFS, RULES, AND ) CAUSE NO. 45690  
REGULATIONS )**

**STIPULATION AND SETTLEMENT AGREEMENT**

Community Natural Gas Co., Inc. (“Petitioner”) and the Indiana Office of Utility Consumer Counselor (“OUCC”), (collectively the “Settling Parties”), solely for purposes of compromise and settlement, stipulate and agree that the terms and conditions set forth below represent a fair, just and reasonable resolution of the matters set forth below, subject to their incorporation by the Indiana Utility Regulatory Commission (“Commission”) into a final, non-appealable order (“Final Order”) without modification or further condition that may be unacceptable to any Settling Party. If the Commission does not approve this Stipulation and Settlement Agreement (“Settlement Agreement”), in its entirety, the entire Settlement Agreement shall be null and void and deemed withdrawn, unless otherwise agreed to in writing by the Settling Parties.

**I. TERMS AND CONDITIONS.**

- a) The Settling Parties agree that Community’s proposal as set forth in its case-in-chief, including the Partial Settlement, shall be approved except as modified herein.
- b) Capital Structure – The Settling Parties agree to use an updated cut-off date of October 31, 2021 in determining Community’s capital structure. The Settling Parties further agree to include the \$1.25 million long-term Line of Credit in

Community's capital structure at a cost of 2.35%. The resulting Weighted Average Cost of Capital is 7.95%.

- c) Cell Phones – The Settling Parties agree to Community's proposed level of cell phone expense. Community agrees to develop a written policy regarding employee use of company-provided cell phones and will provide the OUCC with a copy of that policy for comment within 90 days of the final order.
- d) Meals Expense – The Settling Parties agree to remove 50% of the test year level of meals expenses, or \$1,367. Community agrees to develop a written policy regarding expensing of meals, including better documentation of the subject matter of meetings for which meals are expensed and will provide the OUCC with a copy of that policy for comment within 90 days of the final order.
- e) Vehicle/Transportation – The Settling Parties agree to Community's proposed level of vehicle expense. Community agrees to develop a written policy regarding employee use of company-provided vehicles and will provide the OUCC with a copy of that policy for comment within 90 days of the final order. Included in any such policy is the agreement that Community will track vehicles that are used for personal use by detailing the mileage of such personal use.
- f) Payroll/Salary Expense – The Settling Parties acknowledge that Community has hired a new employee effective April 16, 2022, and agree to include the associated payroll expense in the revenue requirement. Other salaries shall be adjusted as proposed by Community. Pension expense and payroll tax expense will remain at the amounts proposed by Community.

- g) Rate Case Expense – The Settling Parties agree to set rate case expense associated with this case to \$200,000. Community also accepts the OUCC’s calculation of the amount of prior rate case expense to be included in the amortization. The Settling Parties further agree to amortize rate case expense over five years. This results in a pro forma adjustment of (\$32,770). Community shall be permitted to seek recovery of any unamortized portion of rate case expense in its next base rate case. Community agrees to file a revised tariff if new rates have not gone into effect at the end of the five-year amortization period to remove rate case expense from Petitioner’s base rates.
- h) Outside Service Expense – The Settling Parties agree to include in the revenue requirement the full amount of outside services proposed by Community. Community also agrees to provide in subsequent rate cases greater detail regarding legal expenses by matter to facilitate the OUCC’s review of outside expenses.
- i) Advertising/Public Awareness Expense – The Settling Parties agree to include in the revenue requirement the three-year average annual expense associated with public awareness materials. This results in a pro forma adjustment of (\$4,784).
- j) Other Adjustments – The Settling Parties agree to the following adjustments proposed by the OUCC: OUCC’s adjustment to lobbying fees of \$608; OUCC’s adjustment to remove EE contribution for NTA of \$14,650; OUCC’s adjustment to Cause No. 43995 S1 expense of \$23,902; OUCC’s adjustment to reflect the repeal of the Utility Receipts Tax of (\$115,038); OUCC’s calculation of assets fully depreciated for the calculation of depreciation expense, which results in a pro forma depreciation expense adjustment of \$106,122; OUCC’s adjustment to property

taxes of \$18,065; and recognition that the OUCC and Petitioner used the same methodology to calculate the IURC fee, state income taxes, and federal income taxes.

- k) Rate Base – The Settling Parties agree to the OUCC’s calculation of the additional accumulated depreciation through October 31, 2021 and the OUCC’s calculation on materials and supplies and gas storage amounts. The Settling Parties recognize the OUCC and Petitioner used the same methodology to calculate working capital. The total original cost rate base is \$17,309,920.
- l) Cost of Equity Capital and Cost of Service - The Settling Parties entered into a Stipulation and Partial Settlement Agreement on Cost of Equity Capital and Cost of Service issues on February 25, 2022. The terms of that Stipulation and Partial Settlement Agreement are now incorporated into this Settlement Agreement.

## **II. PRESENTATION OF THE SETTLEMENT AGREEMENT TO THE COMMISSION.**

1. The Settling Parties shall support this Settlement Agreement before the Commission and request that the Commission expeditiously accept and approve the Settlement Agreement.

2. The Settling Parties agree to provide each other with an opportunity to review drafts of testimony supporting the Settlement Agreement to consider the input of the other Settling Party. Such evidence, together with the evidence previously prefiled in this Cause, will be offered into evidence without objection and the Settling Parties hereby waive cross-examination of each other’s witnesses. The Settling Parties propose to submit this Settlement Agreement and evidence conditionally, and that, if the Commission fails to approve this Settlement Agreement in its entirety

without any change or approves it with condition(s) unacceptable to any Settling Party, the Settlement and supporting evidence shall be withdrawn and the Commission will continue to hear this with the proceedings resuming at the point they were suspended by the filing of this Settlement Agreement.

3. A Commission Order approving this Settlement Agreement shall be effective immediately, and the agreements contained herein shall be unconditional, effective and binding on all Settling Parties as an Order of the Commission.

4. The Parties acknowledge a significant motivation for Petitioner to enter into this Settlement is the expectation that a final order will be issued promptly by the Commission authorizing increases in its rates and charges as reflected by this Settlement and the accepted positions of the Parties as reflected by the evidence in this Cause. The Parties have spent significant time and effort to resolve the issues raised in this case.

5. The Parties believe the Parties' direct testimony and exhibits and the Parties' settlement testimony and exhibits, along with this Settlement, constitute substantial evidence sufficient to support this Settlement and provide an adequate evidentiary basis upon which the Commission may make findings of fact and conclusions of law necessary to issue a final order adopting and approving this Settlement.


### **III. SETTLEMENT EFFECT, SCOPE, AND APPROVAL**

1. The Parties acknowledge and agree as follows:
  - a) The Settlement is conditioned upon and subject to its acceptance and approval by the Commission in its entirety without change or condition that is unacceptable to either Petitioner or the OUCC. Each term of the Settlement is in consideration and support of each and every other term.
  - b) The Settlement is the result of compromise by the Parties within the settlement process. Neither the making of this Settlement nor any of the individual provisions or stipulations herein shall constitute an admission or waiver by any Party in any other proceeding; nor shall they constitute an admission or waiver in this proceeding if the Settlement is not accepted by the Commission. The Parties hereto shall not use this Stipulation or the Order provided by this Stipulation as precedent or offer the same as an admission in any other proceeding or for any other purpose except to the extent necessary to implement or enforce its terms. In the event this Stipulation or resulting Order is offered for any purpose prohibited by this Agreement, the Parties agree that objections by the non-offering party are proper.
  - c) The communications and discussions among the Parties, along with the materials produced and exchanged during the negotiation of this Settlement, relate to offers of settlement and compromise, and as such, all are privileged and confidential. Such material cannot be used in this or any other proceeding without the agreement of the Parties herein.


- d) The undersigned represent and agree that they are fully authorized to execute this Settlement on behalf of their designated clients who will thereafter be bound by this Settlement.
- e) The Parties hereto will either support; or not oppose on rehearing, reconsideration, and/or appeal; an IURC order accepting and approving this Settlement in accordance with its terms.

ACCEPTED and AGREED this 30th day of June, 2022

Community Natural Gas Co. Inc.

By:   
Counsel of Record

Indiana Office of Utility Consumer Counselor

  
By: \_\_\_\_\_  
Counsel of Record

DMS: 23007688.1



# INDIANA UTILITY REGULATORY COMMISSION

## **STIPULATION AND PARTIAL SETTLEMENT AGREEMENT ON COST OF EQUITY CAPITAL AND COST OF SERVICE**

The Parties have also discussed the appropriateness of settling issues related to the cost of service and the resulting rate design. The Parties agree Petitioner prepared a cost-of-service study in a prior base rate case, Cause No. 44768, Order dated March 22, 2017, page 4. Issues surrounding such cost-of-service study and resulting rate design were fully litigated in that Cause. The Commission's Order approved the cost-of-service study and rate design as proposed by Petitioner. The Parties agreed in Petitioner's most recent base rate case, Cause No. 45214, that no material changes had occurred since the cost-of-service study was performed in Cause No. 44768. Cause No. 45214, Order dated December 18, 2019, page 10. Similarly, the Parties believe no material

changes have occurred within Petitioner's customer classes since the Order in Cause No. 45214 that would require a new cost-of-service study. Therefore, the Parties agree any increase in Petitioner's revenue requirement established in this Cause be allocated across the board to all rate classes such that the total revenues of each rate class are increased by the same percentage. The Parties agree the monthly customer charges should remain unchanged, with the exception that the residential class monthly service charge should be increased to \$14.02 per month. The Parties agree Petitioner will prepare a revenue proof that will use the updated customer numbers from Petitioner's case-in-chief filing.

The Parties acknowledge that in Cause No. 43995-S1, the accounting and ratemaking treatment of Petitioner's Sales Reconciliation Component ("SRC") was litigated. The Parties agree that for purposes of this rate case, Petitioner shall include the balance of the SRC not already refunded to customers in Petitioner's capital structure at zero cost.

The Parties acknowledge that each will provide the Commission with testimony from their respective witnesses in support of this Partial Settlement Agreement. The Parties anticipate continuing to engage in settlement negotiations related to other issues in this Cause and will advise the Commission if additional issues are settled.

The Parties also acknowledge this Partial Settlement Agreement is conditioned upon and subject to the Commission's acceptance and use of the terms of this Partial Settlement Agreement in this Cause and in the Commission's Final Order. To the extent the Commission does not accept this Partial Settlement Agreement, or does not use the terms of this Partial Settlement Agreement in its Final Order, the Parties reserve their right to seek additional proceedings and offer additional testimony in this Cause related to these issues.

Finally, the Parties recognize this Partial Settlement Agreement is reached for purposes of this Cause only. The Parties acknowledge that neither will cite this Partial Settlement Agreement as precedent before the Commission in any other Cause beyond this proceeding. The undersigned attorneys represent that they are fully authorized to execute this Partial Settlement Agreement on behalf of their designated Party.

ACCEPTED and AGREED this 25th day of February, 2022

Community Natural Gas Co. Inc.



By: \_\_\_\_\_  
Jeffrey M. Peabody  
Counsel of Record

Indiana Office of Utility Consumer Counselor



By: \_\_\_\_\_  
Kelly Earls  
Counsel of Record