



December 7, 2018

**VIA E-FILE**

**Jonathan P. Nase**

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Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
Harrisburg, PA 17120

**Re: PENNSYLVANIA PUBLIC UTILITY COMMISSION V. BOROUGH OF INDIANA,  
DOCKET NO. R-2018-3003141**

**JOINT PETITION FOR APPROVAL OF SETTLEMENT OF RATE PROCEEDING**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is the original of the Joint Petition for Approval of Settlement of Rate Proceeding ("Settlement") between the Borough of Indiana ("Indiana"), the Pennsylvania Public Utility Commission's Bureau of Investigation & Enforcement ("I&E") and the Office of Consumer Advocate ("OCA") (hereinafter collectively referred to as the "Joint Petitioners"). By the Settlement, the Joint Petitioners resolve in full Indiana's rate filing at Docket No. R-2018-3003141.

Please note that Indiana's Statement in Support asks the Administrative Law Judge and the Commission to expedite consideration of the Settlement, so that the Settlement can be considered at either the January 17, 2019 public meeting or the February 7, 2019 public meeting.

Copies of the Settlement are being served on the Presiding Officer, Administrative Law Judge Mary D. Long, and on all parties, as indicated on the enclosed Certificate of Service.

Thank you for your attention to this matter. If you have any questions, please direct them to me.

Sincerely,

COZEN O'CONNOR

By: Jonathan P. Nase  
Counsel for *Borough of Indiana*

JPN

Enclosure

cc: Honorable Mary D. Long  
Per Certificate of Service  
Neva Stotler, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

v.

Borough of Indiana

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Docket No. R-2018-3003141

**CERTIFICATE OF SERVICE**

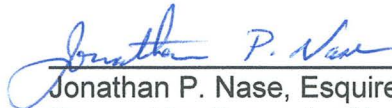
I hereby certify that I have this day served a true copy of the foregoing **Joint Petition For Approval of Settlement of Rate Proceeding**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA E-MAIL AND FIRST CLASS MAIL:**

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Christine Maloni Hoover, Esq.  
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Commonwealth Keystone Building  
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Harrisburg, PA 17120  
Counsel for  
*Bureau of Investigation and Enforcement*  
E-mail: ermclain@pa.gov

DATED: December 7, 2018

  
\_\_\_\_\_  
Jonathan P. Nase, Esquire  
Counsel for *Borough of Indiana*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**Administrative Law Judge Mary D. Long**

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Pennsylvania Public Utility Commission,	:	
Office of Consumer Advocate	:	
	:	Docket Nos. R-2018-3003141,
v.	:	C-2018-3003732
	:	
Borough of Indiana	:	

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**JOINT PETITION FOR APPROVAL OF  
SETTLEMENT OF RATE PROCEEDING**

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**I. INTRODUCTION**

The Borough of Indiana (“Indiana”), the Office of Consumer Advocate (“OCA”) and the Pennsylvania Public Utility Commission’s Bureau of Investigation & Enforcement (“I&E”), being all of the parties to the above-captioned proceeding (hereinafter collectively referred to as the “Joint Petitioners”), hereby join in this “Joint Petition for Approval of Settlement of Rate Proceeding” (“Settlement”) and respectfully request that the Honorable Administrative Law Judge Mary D. Long (the “ALJ”) and the Pennsylvania Public Utility Commission (“Commission”) approve this Settlement without modification.

As fully set forth and explained below, the Joint Petitioners have agreed to a settlement of all issues in the above-captioned proceeding. The Settlement provides for increases in rates designed to produce an increase in annual operating revenues of \$719,000 over present rates, of

which \$316,816 is applicable to PUC-jurisdictional customers. Attached as **Appendix A** is a proof of revenues, which also shows the anticipated impact of the agreed-upon settlement rates on the average customer. Attached as **Appendix B** is a pro forma tariff supplement.

In support of this Settlement, the Joint Petitioners state the following:

## **II. STIPULATION OF FACTS**

1. Indiana is a borough located in Indiana County, Pennsylvania. It provides wastewater treatment service to the public for compensation inside the borough limits and in White Township, Indiana County. As of year-end 2017, Indiana provided wastewater treatment service to 3,214 customers inside the Borough and 3,973 customers outside the Borough. Borough of Indiana Statement DMK-1 p. 6.

2. Indiana's last rate increase was in 2002. Since that time, Indiana has made changes to its wastewater treatment plant, including replacing the existing belt filter press with a more efficient rotary-type press for sludge disposal. Borough of Indiana Statement RF-1 pp. 3-4.

3. On June 28, 2018, Indiana filed proposed Supplement No. 11 to Sewer – Pa. P.U.C. No. 1 (“Supplement No. 11”), to be effective September 1, 2018. The proposed tariff supplement provided for an increase in base rate revenues of \$880,920, of which \$390,062 was attributable to customers outside Indiana. Indiana also filed the supporting data required by 52 Pa. Code § 53.52.

4. The Borough subsequently submitted an updated revenue requirement study, which concluded that the Borough's original filing did not comport with generally-established ratemaking methodologies in certain respects. According to the updated revenue requirement study, generally-established ratemaking methodologies supported a revenue increase over current rates greater than that of the Borough's as-filed request. The Borough, however, did not increase its rate request. Borough of Indiana Statement DMK-1 pp. 4-5.

5. On July 31, 2018, the OCA filed a formal complaint against the proposed increase in rates and a Notice of Appearance. OCA is authorized to represent the interests of consumers before the Commission. Act 161 of 1976, 71 P.S. § 309-2.

6. On August 16, 2018, counsel for I&E entered her Notice of Appearance. I&E is the prosecutory bureau for purposes of representing the public interest in ratemaking and service matters before the Office of Administrative Law Judge. *Implementation of Act 129 of 2008 Organization of Bureaus and Offices*, Docket No. M-2008-20071852 (Order entered August 11, 2011).

7. By Order entered August 23, 2018, the PUC suspended Supplement No. 11 by operation of law until April 1, 2019, unless otherwise directed by Order of the Commission.

8. Indiana, OCA and I&E agreed to enter into mediation in order to resolve this proceeding.

9. Administrative Law Judge Mary D. Long (the "ALJ") issued her Prehearing Conference Order on August 29, 2018 notifying the parties that a Prehearing Conference was scheduled for Wednesday, September 5, 2018.

10. In compliance with the Commission's Order of August 23, 2018, and due to the parties' agreement to engage in mediation, on September 4, 2018, Indiana filed Supplement No. 12 to Sewer-PA P.U.C. No. 1, suspending the rates in Supplement No. 11 until June 1, 2019.

11. A Prehearing Conference was held in this matter on September 5, 2018. The ALJ issued her Prehearing Order on September 5, 2018 to memorialize the matters decided and agreed-upon by the parties.

12. Mediation did not result in a full settlement or stipulations. Consequently, a Further Prehearing Conference was held on October 31, 2018.

13. Indiana filed its Direct Testimony on November 2, 2018. The Joint Petitioners are filing a Joint Stipulation for Admission of Evidence, of even date herewith, stipulating to the authenticity of and admission into the evidentiary record of this testimony.

14. The Borough has responded to numerous formal and informal discovery requests from OCA and I&E.

15. If this matter had been fully litigated, I&E and the OCA would have contended that Indiana should have received a rate increase in an amount less than the full amount that Indiana requested in Supplement No. 11.

16. The Joint Petitioners had numerous telephone calls in an effort to achieve a settlement. As a result of those calls, and the efforts of the Joint Petitioners to examine the issues raised during the course of the proceeding, a settlement in principle was achieved by the Joint Petitioners prior to the date for the submission of non-company direct testimony. On November 21, 2018, the Joint Petitioners, by electronic mail, advised the ALJ of the settlement in principle. On November 26, the Joint Petitioners asked the ALJ to suspend the litigation schedule and cancel the hearings scheduled for January 23 and January 24, 2019. On November 26, 2018, the ALJ issued an Interim Order Suspending the Litigation Schedule and Establishing Instructions for the Filing of a Joint Petition for Settlement.

17. In accordance with 52 Pa. Code § 53.45(h), on November 28, 2018, Indiana filed an affidavit confirming compliance with the applicable notice requirements contained in the Commission's rules and regulations regarding general base rate filings.

18. The Joint Petitioners have been able to agree to a rate increase and individual provisions that resolve all issues in the proceeding, and the Joint Petitioners have agreed to a revenue allocation and rate design to recover said increase. The Joint Petitioners are in full

agreement that the Settlement is in the best interests of Indiana and its customers and should be approved. They have each submitted a Statement in Support, explaining why they believe the Settlement is in the public interest. The Settlement's terms are set forth in the following Section.

### **III. SETTLEMENT TERMS**

19. In settlement of all issues in this base rate proceeding, the Joint Petitioners agree as follows:

#### **A. Revenue Requirement**

20. Following entry of a Commission final order approving this Settlement, Indiana Borough shall file a compliance tariff supplement, effective on 1 days' notice, with new rates designed to produce \$719,000 in additional annual operating revenue base.

21. \$316,816 (approximately 44%) of the increase will be allocated to PUC jurisdictional customers, \$402,841 (approximately 56%) of the increase will be allocated to non-jurisdictional customers.

#### **B. Stay out**

22. Indiana Borough will not file with the Commission a tariff or tariff supplement proposing a general increase in base rates earlier than two years from the effective date of the tariff supplement described in Paragraph 20, provided, however, that the foregoing provision shall not prevent Indiana Borough from filing a tariff or tariff supplement proposing a general increase in rates in compliance with Commission orders or in response to fundamental changes in regulatory policies affecting Indiana Borough's rates.

#### **C. Audited Financial Statements**

23. The Borough's auditor shall submit the Borough's annual audited financial statement to the OCA and I&E at the same time that the annual audited financial statement is

submitted to the Department of Community and Economic Development. This provision is effective until the filing of the Borough's next rate case, or until the Borough ceases to fall under the jurisdiction of the PUC.

**D. Miscellaneous**

24. It is recognized by the settling parties that this is a "black box" settlement that is a compromise of the settling parties' positions on various issues.

**IV. CONDITIONS OF SETTLEMENT**

25. The Settlement is conditioned upon the Commission's approval of the terms and conditions contained in this Settlement without modification. If the Commission modifies the Settlement, any Joint Petitioner may elect to withdraw from the Settlement and may proceed with litigation and, in such event, the Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Joint Petitioners within five (5) business days after the entry of an Order modifying the Settlement. The Joint Petitioners acknowledge and agree that this Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated this proceeding.

26. This Settlement is proposed by the Joint Petitioners to settle all issues in the instant proceeding. If the Commission does not approve the Settlement and the proceedings continue, the Joint Petitioners reserve their respective procedural rights, including the right to present additional testimony and to conduct full cross-examination, briefing and argument. The Settlement is made without any admission against, or prejudice to, any position which any Joint Petitioner may adopt in the event of any subsequent litigation of these proceedings, or in any other proceeding.

27. The Joint Petitioners acknowledge that the Settlement reflects a compromise of competing positions and does not necessarily reflect any party's position with respect to any issues



raised in this proceeding. This Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

28. Attached as **Appendices C** through **E** are the respective Statements in Support of the Joint Petition for Approval of Settlement of Rate Proceeding submitted by Indiana, OCA and I&E setting forth the bases upon which each Joint Petitioner believes the Settlement to be fair, just and reasonable and, therefore, in the public interest.

29. If the ALJ recommends approval of the Settlement without modification, the Joint Petitioners waive their rights to file Exceptions.

#### **V. REQUEST FOR RELIEF**

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request that:

(a) The Honorable Administrative Law Judge Mary D. Long and the Commission approve this Settlement as submitted including all terms and conditions thereof without modification;

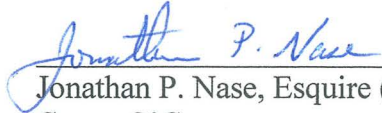
(b) The Commission's Investigation at Docket No. R-2018-3003141 be terminated and marked closed;

(c) The Complaint of the Office of Consumer Advocate at C-2018-3003732 be marked closed; and,

(d) The Commission enter an order consistent with this Settlement, terminating the proceeding and authorizing the Borough of Indiana to file the tariff supplement attached as **Appendix B** to be effective on one days' notice.

[Signatures appear on next page.]

Respectfully submitted,



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Counsel for *Borough of Indiana*

Date: December 7, 2018

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Date: \_\_\_\_\_

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Respectfully submitted,

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Date: 12/07/18

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Date: \_\_\_\_\_

Respectfully submitted,

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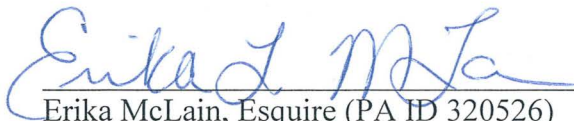
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Date: 12/7/18

## **List of Appendices**

- A. Proof of Revenues and Bill Impact
- B. Pro forma Tariff Supplement
- C. Statement in Support of Indiana Borough
- D. Statement in Support of the Office of Consumer Advocate
- E. Statement in Support of the Bureau of Investigation and Enforcement

## **APPENDIX A**

# **PROOF OF REVENUES AND BILL IMPACT**

**BOROUGH OF INDIANA - SEWER FUND**  
 Proof Of Revenue Settlement Rates - Residential, Industrial, Commercial Flat Rate Unmetered Customer Class  
Pro Forma Revenues Under Current and Settlement Rates

	Per Books Revenues	% of Total	Pro Forma Current Rates			% of Total	URR Adj.	Pro Forma Settlement Rates				% of Total	Settlement Rev. Inc.	% Inc.	Borough As-Filed Rev. Inc.	Settlement Reduction To As-Filed	
			Current Rates	# Cust.	Annual # MC Units			Total Revenues	Settl. Rates	# Cust.	Annual # MC Units						Total Revenues
<b>Inside Borough Customers</b>																	
Inside Res. Flat Rate Unit Charges	\$ 551,111		\$ 12.57	2770	43,843.357	\$ 551,111	\$ -	\$ 15.95	2770	43,843.357	\$ 699,302	\$ 148,191	27%	\$ 181,867	\$ (33,676)		
inside Inst. Flat Rate Cust. Annual Chrg	\$ 707,100		\$ 707,100	1	1	\$ 707,100	\$ -	\$ 897,553	1	1	\$ 897,553	\$ 190,453	27%	\$ 233,343	\$ (42,890)		
Inside Ind. Flat Rate Unit Charges	\$ 13,810		\$ 3.32	2	4,159.639	\$ 13,810	\$ -	\$ 4.21	2	4,159.639	\$ 17,512	\$ 3,702	27%	\$ 4,557	\$ (855)		
Inside Comm. Metered Rate Cust.	\$ 215,427			441		\$ 220,547	\$ 5,120		441		\$ 280,042	\$ 59,495	27%	\$ 71,091	\$ (11,596)		
<b>Total Inside Customers</b>	<b>\$ 1,487,448</b>	<b>55.7%</b>		<b>3214</b>		<b>\$ 1,492,568</b>	<b>55.9%</b>	<b>\$ 5,120</b>		<b>3214</b>		<b>\$ 1,894,409</b>	<b>55.9%</b>	<b>\$ 401,841</b>	<b>27%</b>	<b>\$ 490,858</b>	<b>\$ (89,017)</b>
<b>Outside Borough Customers</b>																	
Outside Res. Flat Rate Unit Charges	\$ 751,752		\$ 12.57	3524	59,805.251	\$ 751,752	\$ -	\$ 15.95	441	59,805.251	\$ 953,894	\$ 202,142	27%	\$ 248,078	\$ (45,936)		
Outside Inst. Flat Rate Cust. N/A	\$ -		\$ -	0	0	\$ -	\$ -	\$ -	0	0	\$ -	\$ -		\$ -	\$ -		
Outside Ind. Flat Rate Unit Charges	\$ 2,039		\$ 3.32	1	614.157	\$ 2,039	\$ -	\$ 4.21	1	614.157	\$ 2,586	\$ 547	27%	\$ 673	\$ (126)		
Outside Comm. Metered Rate Cust.	\$ 428,216			448		\$ 423,096	\$ (5,120)		448		\$ 537,224	\$ 114,128	27%	\$ 141,311	\$ (27,183)		
<b>Total Outside Customers</b>	<b>\$ 1,182,007</b>	<b>44.3%</b>		<b>3973</b>		<b>\$ 1,176,887</b>	<b>44.1%</b>	<b>\$ (5,120)</b>		<b>890</b>		<b>\$ 1,493,704</b>	<b>44.1%</b>	<b>\$ 316,817</b>	<b>27%</b>	<b>\$ 390,062</b>	<b>\$ (73,245)</b>
<b>Total Borough Customers</b>																	
In/Out Side Res. Flat Rate Unit Charges	\$ 1,302,863		\$ 12.57	6294	103,648.608	\$ 1,302,863	\$ -	\$ 15.95	441	103,648.608	\$ 1,653,196	\$ 350,333	27%	\$ 429,945	\$ (79,612)		
In/Out Side Inst. Flat Rate Cust.	\$ 707,100		\$ 707,100	1	1	\$ 707,100	\$ -	\$ 897,553	1	1	\$ 897,553	\$ 190,453	27%	\$ 233,343	\$ (42,890)		
In/Out Side Ind. Flat Rate Unit Charges	\$ 15,849		\$ 3.32	3	4,773.796	\$ 15,849	\$ -	\$ 4.21	3	4,773.796	\$ 20,098	\$ 4,249	27%	\$ 5,230	\$ (981)		
In/Out Side Comm. Metered Rate Cust.	\$ 643,643			889		\$ 643,643	\$ -		889		\$ 817,266	\$ 173,623	27%	\$ 212,402	\$ (38,779)		
<b>Total Inside / Outside Customers</b>	<b>\$ 2,669,455</b>	<b>100.0%</b>		<b>7187</b>		<b>\$ 2,669,455</b>	<b>100.0%</b>	<b>\$ -</b>		<b>1334</b>		<b>\$ 3,388,113</b>	<b>100.0%</b>	<b>\$ 718,658</b>	<b>27%</b>	<b>\$ 880,920</b>	<b>\$ (162,262)</b>
Settlement Revenue Increase												\$ 719,000					
Settlement Rates Over/(Under) Settlement Revenue Increase												\$ (342)					

**BOROUGH OF INDIANA - SEWER FUND**  
Proof Of Revenue Settlement Rates - Commercial Metered Customer Class  
Pro Forma Revenues Under Current and Settlement Rates

	Per Books Revenues	Pro Forma Current Rates				URR Adj.	Pro Forma Settlement Rates				Settlement Rev. Inc.	Borough As-Filed Rev. Inc.	Settlement Reduction To As-Filed	
		Current Rates	# Cust.	Annual # MC Units	Total Revenues		Settl. Rates	# Cust.	Annual # MC Units	Total Revenues				% Inc.
<u>Inside Commercial Metered Cust.</u>														
Minimum Charge		\$ 12.57	441	4,912,729	\$ 61,753		\$ 15.95	441	4,912,729	\$ 78,358	\$ 16,605	27%		
Gallons:		<u>\$/1,000 Gal</u>		Annual Gallons			<u>\$/1,000 Gal</u>		Annual Gallons					
First 4,000 Gallons Allowance		Min. Allow.		13,739,700			Min. Allow.		13,739,700					
Next 16,000 Gallons		\$ 3.14		24,589,500	77,211		\$ 3.99		24,589,500	98,112	20,901	27%		
All over 20,000 Gallons		\$ 2.56		31,868,227	81,583		\$ 3.25		31,868,227	103,572	21,989	27%		
<b>Total Inside Metered Rate Charges</b>	<b>\$ 215,427</b>			<b>70,197,427</b>	<b>\$ 220,547</b>	<b>\$ 5,120</b>			<b>70,197,427</b>	<b>\$ 280,042</b>	<b>\$ 59,495</b>	<b>27%</b>	<b>\$ 71,091</b>	<b>\$ (11,596)</b>
<u>Outside Commercial Metered Cust.</u>														
Minimum Charge		\$ 12.57	448	4,331,026	\$ 54,441		\$ 15.95	448	4,331,026	\$ 69,080.00	\$ 14,639	27%		
Gallons:		<u>\$/1,000 Gal</u>		Annual Gallons	Total Revenues		<u>\$/1,000 Gal</u>		Annual Gallons	Total Revenues				
First 4,000 Gallons Allowance		Min. Allow.		15,478,850			Min. Allow.		15,478,850					
Next 16,000 Gallons		\$ 3.14		33,886,421	106,403		\$ 3.99		33,886,421	135,207	28,804	27%		
All over 20,000 Gallons		\$ 2.56		102,442,066	262,252		\$ 3.25		102,442,066	332,937	70,685	27%		
<b>Total Outside Metered Rate Charges</b>	<b>\$ 428,216</b>			<b>151,807,337</b>	<b>\$ 423,096</b>	<b>\$ (5,120)</b>			<b>151,807,337</b>	<b>\$ 537,224</b>	<b>\$ 114,128</b>	<b>27%</b>	<b>\$ 141,311</b>	<b>\$ (27,183)</b>
<u>Total Commercial Metered Cust.</u>														
Minimum Charge		\$ 12.57	889	9,243.75	\$ 116,194		\$ 15.95	889	9,243.76	\$ 147,438	\$ 31,244	27%	\$ -	
Gallons:		<u>\$/1,000 Gal</u>		Annual Gallons	Total Revenues		<u>\$/1,000 Gal</u>		Annual Gallons	Total Revenues				
First 4,000 Gallons Allowance		Min. Allow.		29,218,550			Min. Allow.		29,218,550					
Next 16,000 Gallons		\$ 3.14		58,475,921	183,614		\$ 3.99		58,475,921	233,319	49,705	27%	-	
All over 20,000 Gallons		\$ 2.56		134,310,293	343,835		\$ 3.25		134,310,293	436,509	92,674	27%	-	
<b>Total Metered Rate Charges</b>	<b>\$ 643,643</b>			<b>222,004,764</b>	<b>\$ 643,643</b>	<b>\$ -</b>			<b>222,004,764</b>	<b>\$ 817,266</b>	<b>\$ 173,623</b>	<b>27%</b>	<b>\$ 212,402</b>	<b>\$ (38,779)</b>

<u>Current, As-Filed, and Settlement Monthly Rates</u>								<u>Outside Typical Monthly Bill By Customer Group</u>								
	Current Rates	As-Filed Proposed		Settlement Proposed		Current Rates	As-Filed Proposed		Settlement Proposed		Current Rates	As-Filed Proposed		Settlement Proposed		
		\$ Inc.	% Inc.	Rates	\$ Inc.		% Inc.	Rates	\$ Inc.	% Inc.		Rates	\$ Inc.	% Inc.	Rates	
Residential Flat Rate Charge	\$ 12.57	\$ 4.15	33%	\$ 16.72	\$ 3.38	27%	\$ 15.95	<b>1 Typical Monthly Outside Residential Flat Rate Cust.</b>								
								\$ 12.57	\$ 4.15	33%	\$ 16.72	\$ 3.38	27%	\$ 15.95		
Gallons: Comm. Chr	<u>\$/1,000 Gal</u>			<u>\$/1,000 Gal</u>				<u>\$/1,000 Gal</u>			<u>\$/1,000 Gal</u>			<u>\$/1,000 Gal</u>		
First 4,000 Gallons Allowance	Min. Allow Chrg.	\$ 12.57	\$ 4.15	33%	\$ 16.72	\$ 3.38	27%	\$ 15.95	<b>1 Typical Monthly Outside Commercial Cust. Using 28,000 Gallons.</b>							
Next 16,000 Gallons		\$ 3.14	\$ 1.04	33%	\$ 4.18	\$ 0.85	27%	\$ 3.99	4000	\$ 12.57	\$ 4.15	33%	\$ 16.72	\$ 3.38	27%	\$ 15.95
All over 20,000 Gallons		\$ 2.56	\$ 0.90	35%	\$ 3.46	\$ 0.69	27%	\$ 3.25	16000	\$ 50.24	\$ 16.64	33%	\$ 66.88	\$ 13.60	27%	\$ 63.84
									8000	\$ 20.48	\$ 7.20	35%	\$ 27.68	\$ 5.52	27%	\$ 26.00
									28000	\$ 83.29	\$ 27.99	34%	\$ 111.28	\$ 22.50	27%	\$ 105.79
Ind. Flat Rate Unit Charges	\$ 3.32	\$ 1.10	33%	\$ 4.42	\$ 0.89	27%	\$ 4.21	<b>1 Typical Monthly Outside Ind. Flat Rate Unit Charge w/51 Equiv. Unit Employees</b>								
									51	\$ 169.32	\$ 56.10	33%	\$ 225.42	\$ 45.39	27%	\$ 214.71
Inside Inst. Flat Rate Cust. Annual Charge	\$ 707,100	\$ 233,343	33%	\$ 940,443	\$ 190,453	27%	\$ 897,553	N/A Outside Inst. Flat Rate Customer								



## **APPENDIX B**

# **PRO FORMA TARIFF SUPPLEMENT**

Supplement No. 13  
to  
Sewer-PA P.U.C. No. 1

BOROUGH OF INDIANA

Rates, Rules and Regulations Governing the Furnishing of Collection and Sewage  
Treatment Services to Areas of White Township, Indiana County, Pennsylvania  
by the Borough of Indiana

ISSUED: XXXXXXXXXXXX

EFFECTIVE: XXXXXXXXXXXX

By: C. Michael Foote (C)  
Borough Manager  
Indiana, Pennsylvania

# NOTICE

**This tariff supplement is a general rate increase under Section 1308(d) of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 1308(d), and updates the schedule with rates for customers pursuant to the Pennsylvania Public Utility Commission's Final Order at Docket No. R-2018-3003141.**

Borough of Indiana  
Indiana, Pennsylvania

Supplement No.13 to (C)  
Sewer-PA P.U.C. No.1  
FOURTH REVISED Page No. 1A  
CANCELLING THIRD REVISED Page  
No. 1A

LIST OF CHANGES MADE BY THIS TARIFF

INCREASES

Rates for all classes of service are increased by 27% in accordance with the Commission's Final Order at Docket No. R-2018-3003141.

CHANGES

Minor wording changes have been made for clarification.

- (I) Indicates an Increase
- (D) Indicates a Decrease
- (C) Indicates a Change

Issued: XXXXXXXXXXXX

Effective: XXXXXXXXXXXX

TABLE OF CONTENTS

Title Page		Supplement No.13	(C)
List of Changes Made by This Tariff	1A	Fourth Revised	(C)
Table of Contents	2	Sixth Revised	(C)
Rate Schedules	3	Seventh Revised	(C) (I)
Rate Schedules (cont'd)	4	Seventh Revised	(C) (I)
Rules and Regulations	7	Original	
Definitions	7	Original	
Article II, Regulating Wastes to be Discharged to the Public Sanitary Sewerage System	9	Original	
Article III, Prohibited Wastes	11	Original	
Billing and Collection	15	Second Revised	
Article VII, Delinquencies, Violations and Remedies	16	Original	

RATE SCHEDULES

FLAT RATE SERVICE:

	<u>Monthly Rate</u>
Residential	
For service to a single family resident	\$15.95 (I)
For service to an apartment building and/or structure Containing six or less apartment dwelling units: Per apartment dwelling (Billing shall be to property owner or his duly authorized agent at the above unit monthly charge multiplied by the number of apartment units.)	\$15.95 (I)

METER RATE SERVICE:

(Service furnished under this schedule to the classes of customers shown below is based on water meter readings for service furnished by the Pennsylvania-American Water Company (Indiana District) applied to the rate schedule shown below.)

Commercial Housing

(Each building or structure housing more than six apartment dwelling units and having water service through a single meter.)

Commercial (other than housing)

(For service to each commercial establishment having a separate metered water service.)

(I) Indicates Increase.

Issued: XXXXXXXXXXXXX

Effective: XXXXXXXXXXXXX

RATE SCHEDULES (cont'd)

METER RATE SERVICE, cont'd.

Public (School, Library, etc.)

(For services to each public customer establishment having a  
 separately metered water service.)

Minimum charge, per month	\$15.95	(I)
Consumption Block	Rate	
<u>Per Month</u>	<u>Per 1,000 Gallons</u>	
First 4,000 Gallons	Minimum Charge	
Next 16,000 Gallons	\$3.99	(I)
All over 20,000 Gallons	\$3.25	(I)

INDUSTRIAL SERVICE:

A. Treatment of Sanitary Sewage Wastes Only.

The sewage treatment service charge to industrial customers for treating Sanitary sewage wastes only and not including any industrial waste arising from or created by any processes employed by such industrial customer, shall be based upon the equivalent employees at such industrial locations, as follows:

The number of equivalent employees shall be determined by taking the total man-hours worked at the industrial location being billed during the previous year by all persons working at such location as his base of operation, and dividing these total man-hours by 2,040. The result of this calculation shall be multiplied by \$4.21 to determine the monthly service charge to the industrial customer being billed. (I)

(I) Indicates Increase.

(C) Indicates Change.

Issued: XXXXXXXXXXXX

Effective: XXXXXXXXXXXX

## **APPENDIX C**

# **STATEMENT IN SUPPORT OF THE BOROUGH OF INDIANA**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**Administrative Law Judge Mary D. Long**

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Pennsylvania Public Utility Commission,	:	
Office of Consumer Advocate	:	
	:	Docket Nos. R-2018-3003141,
v.	:	C-2018-3003732
	:	
Borough of Indiana	:	

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**STATEMENT OF THE BOROUGH OF INDIANA  
IN SUPPORT OF THE  
JOINT PETITION FOR APPROVAL OF  
SETTLEMENT OF RATE PROCEEDING**

---

**I. INTRODUCTION**

The Borough of Indiana (“Indiana”) hereby files this Statement in Support (“Statement”) of the Joint Petition for Approval of Settlement of Rate Proceeding (“Settlement”) entered into by Indiana, the Office of Consumer Advocate (“OCA”) and the Pennsylvania Public Utility Commission’s Bureau of Investigation & Enforcement (“I&E”) (hereinafter collectively referred to as the “Joint Petitioners”) in the above-captioned rate case proceeding. Indiana respectfully requests that the Honorable Administrative Law Judge Mary D. Long (the “ALJ”) recommend approval of, and the Pennsylvania Public Utility Commission (“Commission”) approve, the Settlement (including all terms and conditions thereof) without modification, to also include implementation of new rates as soon as reasonably possible.



The Settlement, if approved, will resolve all of the issues raised by the Joint Petitioners in this proceeding, including revenue requirement, revenue allocation, reporting requirements, and certain other issues. The Settlement is in the best interest of Indiana and its customers, and is otherwise in the public interest. Accordingly, it should be approved.

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. It is particularly noteworthy, in this regard, that the instant settlement was achieved early in the litigation process; Indiana has submitted direct testimony, but the other Joint Petitioners did not need to submit direct testimony. As a result, all the Joint Petitioners will save on litigation expenses. This will particularly benefit Indiana’s jurisdictional customers because Indiana intended to allocate rate case expenses primarily to jurisdictional customers rather than allocating them proportionally between jurisdictional and non-jurisdictional customers. The early settlement will also benefit Indiana because the new rates should be approved and become effective before the end of the suspension period (June 1, 2019). Indiana requests that the ALJ and Commission expedite its consideration of the Settlement, so that the Settlement can be approved at either the January 17, 2019 public meeting or the February 7, 2019 public meeting. Indiana respectively submits that expedited consideration is appropriate in order to improve its overall financial position, i.e., provide for ongoing operating expenses and provide assurances to its lenders that it can meet its debt service obligations.

The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully-litigated proceeding. *See* 52 Pa. Code § 69.401. In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the

public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991).

As an initial matter, the fact that the Settlement is unopposed by any party in this base rate proceeding is, in and of itself, strong evidence that the Settlement is reasonable and in the public interest – particularly given the diverse interests of the Joint Petitioners and the active role that they have taken in this proceeding. Moreover, the Settlement was achieved only after a comprehensive investigation of Indiana's claims and operations. In addition to informal discovery, Indiana responded to numerous formal discovery requests (many of which had multiple subparts). Moreover, the Joint Petitioners participated in numerous settlement discussions, which ultimately led to the Settlement.

Finally, the Joint Petitioners' counsel and experts have considerable experience in rate proceedings. Their knowledge, experience, and ability to evaluate the strengths and weaknesses of their litigation positions provided a strong base upon which to build a consensus on the settled issues.

The Settlement reflects a carefully balanced compromise of the interests of the Joint Petitioners to this proceeding. For these reasons and the reasons set forth below, the Settlement is just and reasonable and should be approved without modification on an expedited basis.

## **II. THE SETTLEMENT IS IN THE PUBLIC INTEREST**

### **A. Revenue Requirement**

The Settlement provides for a total system (Jurisdictional and Non-Jurisdictional) net revenue increase of \$719,000 annually, based upon the *pro forma* level of operations for the twelve months ended December 31, 2017 (*i.e.*, the end of the historic test year). This amount is

approximately 81% of Indiana's original total system revenue increase request of \$880,920. The settlement agreement continues the same proportionality between inside/outside customers because the Jurisdictional settlement revenue increase of \$316,817, when compared to the \$390,062 as-filed request, is approximately the same (81%) on a total system basis. Because the settlement is a "black box" settlement, the Joint Petitioners did not need to reach an agreement on the various elements of the revenue requirement.

Indiana has not increased rates since October 2002. *Pa. Pub. Util. Comm'n v. Borough of Indiana – Sewer Fund*, Docket No. R-00027550 (Order entered October 10, 2002). Due to inflation during the period 2002-2018, the costs of operating the wastewater treatment plant have increased. In addition, Indiana has made significant capital improvements at the plant, including replacement of the existing belt filter press with a more efficient rotary-type press for sludge removal. Borough of Indiana Statement RF-1, Direct Testimony of Roland Francis p. 2. Other improvements since 2002 include: building and outfitting the laboratory; replacing the roof on the control building; enlarging and replacing various main line sewers to the plant; installing new channel grinders at the headworks; adding a flow-trend filtering system for the vacuum truck; purchasing a new loader, security system, dump trucks and other vehicles; and upgrading the heating and lighting systems. Borough of Indiana Statement RF-1, Direct Testimony of Roland Francis p. 3. None of these capital improvements have been placed into rate base previously.

Despite having initially-differing positions on Indiana's revenue requirement, the Joint Petitioners – following extensive formal and informal discovery and settlement negotiations – have concluded that the Settlement and the increase in annual revenue proposed therein are in the public interest. It should be noted that quality of service was not a significant issue in this proceeding. The anticipated increase in Indiana's annual operating revenues should enable it to continue to

provide reasonable and adequate service to customers while meeting the economic challenges caused by inflation and by the need to fund projects to update and maintain the treatment plant. Indiana accordingly believes that the Settlement is in the best interests of Indiana, its customers, and the public in general, and therefore should be approved without modification on an expedited basis.

**B. Allocation Between Jurisdictional and Non-Jurisdictional Customers**

Indiana's original rate case filing provided for a rate increase of approximately 33% on all customers, both inside and outside of the Borough's municipal limits. Borough of Indiana – Sewer Fund, Specific Reasons for Proposed Increase in Sewer Rates, p. 2. As a result, \$390,062 (or approximately 44% of the proposed \$880,920 increase) was allocated to jurisdictional as opposed to non-jurisdictional customers. *Id.*, p. 3.

In the Settlement, the Joint Petitioners agreed to continue to allocate approximately 44% of the increase to jurisdictional customers. Indiana will increase rates across-the-board by approximately 27% for all customers. Jurisdictional customers will pay approximately \$316,817 of the total increase of \$718,658, or approximately 44%, and the non-jurisdictional customers will pay the remaining \$401,841. Settlement Appendix A, p. 1.

Maintaining the present allocation of the revenue requirement between jurisdictional and non-jurisdictional customers is important to Indiana because it allows Indiana to continue charging the same rates to all of its customers, regardless of their location. Having one rate zone is administratively easier than having two rate zones. Additionally, from a customer relations perspective, Indiana believes it is important that customers outside the Borough be treated the same as customers inside the Borough. Indiana accordingly believes that the Settlement is in the best

interests of Indiana, its customers, and the public in general and therefore should be approved without modification.

**C. Rate Case Stay-Out**

The Settlement generally prohibits Indiana from filing another rate case within two years after the effective date of the tariff supplement filed following the Commission's order in this case. This provision is in the interest of customers, in that they will experience rate stability; as a practical matter, it is unlikely that rates will increase again in less than 33 months from the effective date of the tariff filed at the conclusion of this case. This provision is also in the interest of Indiana, because it does not lock the Borough into the agreed-upon rates for an excessive period of time. Indiana accordingly believes that the Settlement is in the best interests of Indiana, its customers, and the public in general and therefore should be approved without modification.

**D. Reporting Requirements**

Finally, the Settlement requires Indiana's auditor to submit Indiana's audited financial statement to the OCA and I&E at the same time that the audited financial statement is submitted to the Department of Community and Economic Development each year, a copy of which is also provided to PENNVEST who is one of Indiana's major lenders. This requirement will be in effect until the filing of the Borough's next rate case, or until the Borough ceases to fall under the jurisdiction of the PUC.

Indiana will not address this issue.

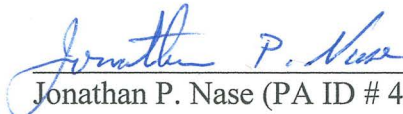
### III. CONCLUSION

Through cooperative efforts and the open exchange of information, the Joint Petitioners have arrived at a settlement that resolves all issues in the proceeding in a fair and equitable manner. The Settlement is the result of a months-long detailed examination of the Indiana Sewer Fund's finances and operations through numerous discovery responses, and extensive settlement negotiations. A fair and reasonable compromise has been achieved in this case, as is evident by the fact that Indiana, I&E, and the OCA have agreed to the resolution of all issues in this proceeding. Indiana fully supports the Settlement and respectfully requests that the Honorable Administrative Law Judge Mary D. Long recommend approval of, and the Commission approve, the Settlement in its entirety, without modification on an expedited basis.

WHEREFORE, the Borough of Indiana respectfully requests that the Honorable Administrative Law Judge Mary D. Long recommend approval of, and that the Commission approve, the Settlement, including all terms and conditions thereof, and that the Commission enter an order consistent with the Settlement that terminates the proceeding, closes the above-referenced docket, and authorizes the Borough of Indiana to issue the tariff supplement in the form attached as **Appendix A** to the Settlement to become effective upon one day's notice.

Respectfully submitted,

Dated: December 7, 2018

  
Jonathan P. Nase (PA ID # 44003)  
Cozen O'Connor  
17 North Second Street, Suite 1410  
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Phone: (717) 703-5892  
E-mail: [jnase@cozen.com](mailto:jnase@cozen.com)  
Counsel for *Borough of Indiana*

**APPENDIX D**

**STATEMENT IN SUPPORT OF  
THE OFFICE OF CONSUMER  
ADVOCATE**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION	:	
	:	
v.	:	Docket Nos. R-2018-3003141
	:	C-2018-3003732
	:	
BOROUGH OF INDIANA	:	

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STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE IN SUPPORT OF THE  
JOINT PETITION FOR APPROVAL OF SETTLEMENT OF RATE PROCEEDING

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The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Approval of Settlement of Rate Proceeding (Settlement), finds the terms and conditions of the Settlement to be in the public interest and in the interests of the Borough of Indiana’s (Borough of Indiana or Borough) ratepayers. The OCA respectfully requests that the Pennsylvania Public Utility Commission (Commission) approve the Settlement for the following reasons:

**I. BACKGROUND**

On June 28, 2018, the Borough of Indiana filed proposed Supplement No. 11 to its Tariff Sewer Pa. P.U.C. No. 1 (Supplement No. 11) at Docket No. R-2018-3003141 and proposed a September 1, 2018 effective date. The Borough is engaged in the business of providing wastewater service to approximately 3,216 customers inside of the Borough and 3,793 customers outside of the Borough’s jurisdiction. Through Tariff Supplement No. 11, the Borough proposed



a general increase in annual wastewater revenues of \$880,920, or by 33% across all customer classes. The Borough proposed that \$390,062 of the proposed increase would be attributable to customers outside of the Borough's jurisdiction. This represents an approximate 31.76% increase for customers outside of the Borough. As part of this increase, the Borough proposed to an increase to the flat monthly rate from \$12.57 to \$16.72, or by 33%, for service to a single-family residential customer. Metered service is provided to customers served by Pennsylvania-American Water Company and appears to apply only to Commercial and Public customers. The proposed rates for these customers was a flat monthly rate of \$16.72 plus a volumetric charge of \$4.18 per 1,000 gallons used over 4,000 gallons. Usage over 20,000 gallons was proposed to be \$3.46 per 1,000 gallons per month.

The OCA filed a Formal Complaint and Public Statement against the proposed revenue increase on July 31, 2018. On August 16, 2018, the Commission's Bureau of Investigation and Enforcement (I&E) entered a Notice of Appearance.

On August 23, 2018, the Commission entered an Order initiating an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase in this filing and the Borough's existing rates, rules, and regulations. The Commission's Order suspended the effective date of Tariff Supplement No. 11 until April 1, 2019, by operation of law. The case was assigned to Administrative Law Judge Mary D. Long, who issued a Prehearing Conference Order on August 28, 2018. A Prehearing Conference was scheduled for September 5, 2018. By email dated August 29, 2018, the Borough notified the Commission that it would participate in the Commission's mediation process. The prehearing conference convened as scheduled and was attended by counsel for the Borough, I&E, and the OCA. The parties agreed to convene a further prehearing conference on October 31, 2018, in order to report on the status of

negotiations and to agree upon a litigation schedule if necessary. On October 31, 2018, a further prehearing conference was convened with counsel for the Borough, I&E, and the OCA. A litigation schedule was established, which included dates for the filing of testimony and scheduled evidentiary hearings in Harrisburg in January 2019. On November 2, 2018, the Borough filed its Direct Testimony.

Several settlement conferences and conference calls were held to attempt to reach a settlement in principle on the issues raised in the case. As a result of those conferences and calls, the Joint Petitioners reached a comprehensive agreement on all issues prior to the dates scheduled for hearings and prior to the date for the filing of non-utility direct testimony.

The terms and conditions of the Settlement satisfactorily address the issues raised in the OCA's Formal Complaint and investigated through formal and informal discovery. The OCA submits that the agreed upon Settlement achieves a fair resolution of the many complex issues presented in this proceeding.

In this Statement in Support, the OCA addresses those areas of the Settlement that specifically relate to important issues that the OCA raised in this case and how the Settlement's terms and conditions meet the public interest standard required for Commission approval.

For these reasons, and those that are discussed in greater detail below, the OCA submits that the Settlement is in the public interest and the interest of the Borough of Indiana's ratepayers, and should be approved by the Commission without modification.

## **II. SETTLEMENT TERMS AND CONDITIONS**

### **A. Revenue Requirement (Settlement ¶¶ 20-21)**

As stated above, in its filing, the Borough of Indiana proposed to increase its total annual operating revenues by \$880,920 per year, or by 33%, of which \$390,062 was attributable to PUC-jurisdictional customers. Under the Settlement, the Borough will be permitted a total annual revenue increase of \$719,000, of which \$316,817 is applicable to PUC-jurisdictional customers. Settlement ¶ 20. This represents an increase of 27% over present revenues and is approximately \$161,920 less than the amount originally requested by the Borough and \$73,245 less for PUC-jurisdictional customers.

The Settlement represents a “black box” approach to the revenue requirement and cost of capital issues. Black box settlements avoid the need for protracted disputes over the merits of individual revenue requirement adjustments and avoid the need for a diverse group of stakeholders to attempt to reach a consensus on each of the disputed accounting and ratemaking issues raised in this matter, as policy and legal positions can differ. As such, the parties have not specified a dollar amount for each issue or adjustment raised in this case. Attempting to reach agreement regarding each adjustment in this proceeding would have likely prevented any settlement from being reached.

Based on the OCA’s analysis of the Borough of Indiana’s filing, discovery responses received, and testimony by the Borough, it is the OCA’s position that the revenue increase under the Settlement represents a result that would be within the range of likely outcomes in the event of full litigation of the case. The increase is reasonable and yields a result that is in the public interest, particularly when accompanied by other important conditions contained in the Settlement. The increase agreed to in the Settlement provides adequate funding to allow the Borough to provide safe, adequate, reliable, and continuous service. As such, the OCA submits

that the increase agreed to in this Settlement is in the public interest and in the interest of the Borough of Indiana's ratepayers, and should be approved by the Commission.

**B. Allocation Between Jurisdictional and Non-Jurisdictional Customers (Settlement ¶ 21)**

As stated above, the Borough initially proposed that \$390,062, or approximately 44% of the total proposed increase of \$880,920 would be attributable to customers outside of the Borough (PUC jurisdictional customers). Under the proposed Settlement, the percentage of the total increase attributable to PUC jurisdictional customers is the same as originally proposed by the Borough.

Under the proposed Settlement, the bill for the typical residential customer will increase from \$12.57 to \$15.95, or by approximately 27%, rather than to \$16.72 (33%) as originally proposed by the Borough. The OCA submits that the Settlement is reasonable, and when accompanied by other important conditions contained in the proposed Settlement, yields a result that is just and reasonable, in the public interest, and should be approved.

**C. Effective Date and Stay-Out Provision (Settlement ¶¶ 20, 22)**

The rates agreed to in the Settlement will become effective on 1 day's notice following the entry of a Commission final order approving the Settlement. Settlement ¶ 20. Importantly, the Settlement includes a stay-out provision wherein the Borough has agreed not to file for another general rate increase prior to two years from the effective date of the tariff supplement. Settlement ¶ 22. The proposed stay-out provision should prevent another rate increase becoming effective before September 2021, assuming the Borough files as soon as the stay-out expires and assuming the next rate case is fully litigated. Thus, this provision will provide a measure of rate stability for consumers and will prevent rate increases in quick succession.

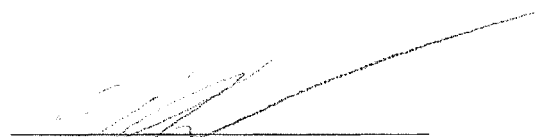
**D. Reporting requirements (¶ 23)**

As part of the Settlement, the Borough's auditor will be required to submit the Borough's annual audited financial statement to the OCA and I&E at the same time the annual audited financial statement is submitted to the Department of Community and Economic Development. Settlement at ¶ 23. This provision will be effective until the filing of the Borough's next rate case or until the Borough is no longer under the jurisdiction of the PUC. Settlement at ¶ 23. The Borough's audited financial statements will provide important information regarding the Borough's finances between rate cases.

### III. CONCLUSION

The OCA submits that the terms and conditions of the proposed Settlement of this rate investigation, taken as a whole, represent a fair and reasonable resolution of the issues raised by the OCA in this matter. Therefore, the OCA submits that the Settlement should be approved by the Commission without modification as being in the public interest.

Respectfully Submitted,



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Christine Maloni Hoover  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 50026  
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Harrison W. Breitman  
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Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

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Phone: (717) 783-5048  
Fax: (717) 783-7152

DATE: December 7, 2018  
262889

**APPENDIX E**

**STATEMENT IN SUPPORT OF  
THE BUREAU OF INVESTIGATION AND  
ENFORCEMENT**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Pennsylvania Public Utility Commission</b>	:	
	:	
v.	:	<b>R-2018-3003141</b>
	:	
<b>Borough of Indiana – Sewer Fund</b>	:	

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**BUREAU OF INVESTIGATION AND ENFORCEMENT  
STATEMENT IN SUPPORT OF  
JOINT PETITION FOR SETTLEMENT  
OF RATE INVESTIGATION**

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**TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Prosecutor Erika L. McLain, hereby respectfully submits that the terms and conditions of the foregoing Joint Settlement Petition (“Joint Petition” or “Settlement”) are in the public interest and represent a fair, just, and reasonable balance of the interests of the Borough of Indiana (“Borough” or “Indiana”) and its customers:

**I. INTRODUCTION**

1. I&E is charged with representing the public interest in Commission proceedings related to rates, rate-related services, and applications affecting the public interest. In negotiated settlements, it is incumbent upon I&E to identify how amicable resolution of any such proceeding benefits the public interest and to ensure that the public



interest is served. Based upon I&E's analysis of the Borough's base rate filing, acceptance of this proposed Settlement is in the public interest and I&E recommends that the Administrative Law Judge and the Commission approve the Settlement in its entirety.

2. On June 28, 2018, the Borough filed Supplement No. 11 to Sewer - Pa. P.U.C. No. 1 ("Supplement No. 11") to be effective September 1, 2018, calculated to produce approximately \$880,920 in additional annual revenue.

3. The Office of Consumer Advocate ("OCA") filed a Formal Complaint against Supplement No. 11 at docket C-2018-3003732 on July 31, 2018.

4. I&E entered Notice of Appearance of Prosecutor Erika L. McLain in this proceeding on August 16, 2018.

5. By Order entered August 23, 2018 at Docket R-2018-3003141, the Commission instituted a formal investigation to determine the lawfulness, justness, and reasonableness of the Borough's existing and proposed rates, rules, and regulations.

6. Pursuant to 66 Pa. C.S. §1308 (d), Supplement No. 11 was suspended by operation of law until April 1, 2019, unless permitted by Commission Order to become effective at an earlier date.

7. Administrative Law Judge ("ALJ") Mary D. Long was assigned to this proceeding for purposes of conducting hearings and issuing a Recommended Decision.

8. A Telephonic Prehearing Conference was scheduled for Wednesday, September 5, 2018 in which all Parties participated.

9. The Parties consented to mediation and on September 5, 2018, the Borough filed Supplement No. 12 with the Commission suspending the application of rates proposed in Supplement No. 11 until June 1, 2019.

10. ALJ issued an Order on September 5, 2018 establishing discovery modifications and hearing dates should the parties not settle through mediation. The Order also scheduled a further Prehearing Conference for October 31, 2018.

11. The Parties participated in an initial mediation session on September 25, 2018. A settlement was not reached at the mediation session and a further mediation session was scheduled for October 24, 2018.

12. The further mediation session was cancelled on October 17, 2018.

13. The Parties participated in the further Prehearing Conference on October 31, 2018.

14. On November 1, 2018, ALJ issued an Order establishing a full litigation schedule.

15. The Borough, in accordance with the litigation schedule, served its Direct Testimony on November 2, 2018.

16. The Parties continued settlement discussions which ultimately culminated in the instant settlement.

17. Prior to agreeing to the settlement, I&E conducted a thorough review of the Borough's filing and supporting information, discovery responses and contributed to the forthright discussions amongst the Parties during settlement discussions.

18. The provisions of the settlement represent a revenue increase that I&E agrees is just, reasonable, and in the public interest.

19. In accordance with Commission policy favoring settlements at 52 Pa. Code §5.231, I&E participated in settlement discussions with the Borough and other Parties to the proceeding. Following extensive settlement negotiations, the Parties reached a full and complete settlement of all issues.

## **II. THE SETTLEMENT IS IN THE PUBLIC INTEREST**

20. I&E represents that all issues raised in the Borough's rate case filing have been satisfactorily resolved through discovery and discussions with the Borough or are incorporated or considered in the resolution proposed in the Settlement. The very nature of a settlement requires compromise on the part of all Parties. This Settlement exemplifies the benefits to be derived from a negotiated approach to resolving what can appear at first blush to be irreconcilable regulatory differences. Joint Petitioners have carefully discussed and negotiated all issues raised in this proceeding, and specifically those addressed and resolved in this Settlement. Further line-by-line identification of the ultimate resolution of the disputed issues beyond those presented in the Settlement is not necessary as I&E represents that the Settlement maintains the proper balance of the interests of all Parties. I&E is satisfied that no further action is necessary and considers its investigation of this rate filing complete.

21. Based upon I&E's analysis of the filing, acceptance of this proposed Settlement is in the public interest. Resolution of this case by settlement rather than

litigation will avoid the substantial time and effort involved in continuing to formally pursue all issues in this proceeding at the risk of accumulating excessive expense.

22. I&E further submits that the acceptance of this Settlement will negate the need for evidentiary hearings, which would compel the extensive devotion of time and expense for the preparation, presentation, and cross-examination of multiple witnesses, the preparation of Main and Reply Briefs, the preparation of Exceptions and Replies, and the potential of filed appeals, all yielding substantial savings for all Parties, and ultimately all customers, as well as certainty on the regulatory disposition of issues. This Settlement thereby conserves time and expenses for all involved.

23. The Commission encourages settlements, which eliminate the time, effort, and expense of litigating a matter to its ultimate conclusion.<sup>1</sup> Here, the Joint Petitioners successfully achieved a Settlement Agreement of all issues.

24. The Commission has recognized that a settlement “reflects a compromise of the positions held by the parties of interest, which, arguably fosters and promotes the public interest.”<sup>2</sup>

25. All signatories to the Joint Petition actively participated in all settlement discussions and mediation sessions during the course of the settlement process. As such, the issues raised by I&E have been satisfactorily resolved through discovery, discussions, and mediation sessions with the Parties and are incorporated in the Joint Petition. I&E represents that the Settlement satisfies all applicable legal standards and results in terms

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<sup>1</sup> *Pa. PUC v. Venango Water Co.*, Docket No. R-2014-2427035, 2015 WL 2251531, at \*3 (Apr. 23, 2015 ALJ Decision) (adopted by Commission via Order entered June 11, 2015); *See* 52 Pa. Code §5.231.

<sup>2</sup> *Pennsylvania Public Utility Commission v. C S Water and Sewer Associates*, 74 PA PUC 767, 771 (1991).

that are preferable to those that may have been achieved at the end of a fully litigated proceeding. Accordingly, for the reasons articulated below, I&E maintains that the proposed Settlement is in the public interest and requests that the following terms be approved by the ALJ and the Commission without modification:

**A. Revenue Requirement ((Joint Petition, ¶A.20)**

The Parties agreed to a \$719,000 increase in annual distribution revenue to become effective upon initial Commission Order in this proceeding. This Settlement balances the interests of ratepayers and the Borough. Indiana will receive sufficient operating funds in order to provide safe and adequate service while ratepayers are protected as the resulting increase minimizes the impact of the Borough’s initial request. Mitigation of the level of the rate increase benefits ratepayers and results in “just and reasonable” rates in accordance with the Public Utility Code, regulatory standards, and governing case law.<sup>3</sup>

**B. Allocation Between Jurisdictional and Non-Jurisdictional Customers  
(Joint Petition, ¶A.21)**

The Settlement allocates \$316,816 or approximately 44% of the increase to PUC jurisdictional customers and \$402,841 or approximately 56% of the increase to non-jurisdictional customers. The distinction between jurisdictional and non-jurisdictional customers increase is important and will assist I&E with a future base rate case. Because municipal systems serve both customers which fall under the Commission’s jurisdiction

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<sup>3</sup> 66 Pa. C.S. § 1301.

and those that do not, determining the proper allocation between these groups is in the public interest as it ensures that costs are being assigned appropriately.

**C. Rate Case Stay-Out (Joint Petition, ¶B.22)**

Absent certain circumstances, the Settlement prevents the Borough from filing for a general base rate increase, as that term is defined in Section 1308(d) of the Public Utility Code, until two years following the effective date of the increase. Indiana may only file a proposal for a general base rate increase before such time (1) in compliance with Commission orders or (2) in response to fundamental changes in regulatory policies or federal or state tax policies affecting Indiana Borough's rates.

This stay out provision will provide rate continuity to ratepayers for at least two years following the effective date of the increase. At the same time, Indiana will avoid hardship if certain unforeseeable events necessitate it to propose rate relief. For these reasons, the stay out provision is in the public interest and should be approved.

**D. Reporting Requirements (Joint Petition, ¶C.23)**

The Settlement Petition requires the Borough's auditor to submit the Borough's annual audited financial statement to the OCA and I&E at the time that the annual audited statement is submitted to the Department of Community and Economic Development. I&E supports this term because it will provide the advocates with a more detailed account of the Borough's finances. It is important to I&E to have detailed records when evaluating a utility's needs to operate its business. By obtaining the annual audited financial statement, I&E is in a better position to analyze and assess the Borough's filing in its next base rate case.

### **III. CONCLUSION**

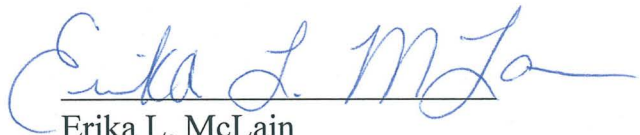
26. The Settlement is conditioned upon the Commission's approval of all terms without modification. Should the Commission fail to grant such approval or otherwise modify the terms and conditions of the Settlement, it may be withdrawn by the Borough, I&E, or any other Joint Petitioner.

27. I&E's agreement to settle this case is made without any admission or prejudice to any position that I&E might adopt during subsequent litigation in the event that the Settlement is rejected by the Commission or otherwise properly withdrawn by any other Parties to the Settlement.

28. If the ALJ recommends that the Commission adopt the Settlement as proposed, I&E agrees to waive the filing of Exceptions. However, I&E does not waive its right to file Replies to Exceptions with respect to any modification to the terms and conditions of the Settlement or any additional matters that may be proposed by the ALJ in the Recommended Decision. I&E also does not waive the right to file Replies in the event any party files Exceptions.

**WHEREFORE**, the Commission's Bureau of Investigation and Enforcement represents that it supports the Joint Petition for Settlement as being in the public interest and respectfully request that Administrative Law Judge Mary D. Long recommend, and the Commission approve, the terms and conditions contained in the Settlement.

Respectfully submitted,



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