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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF MIDWEST NATURAL GAS)
CORPORATION, INDIANA UTILITIES)
CORPORATION, SOUTH EASTERN INDIANA)
NATURAL GAS COMPANY, INC.,)
FOUNTAIN TOWN GAS COMPANY, INC.,)
COMMUNITY NATURAL GAS COMPANY,)
INC., BOONVILLE NATURAL GAS)
CORPORATION, INDIANA NATURAL GAS)
CORPORATION AND SWITZERLAND)
COUNTY NATURAL GAS COMPANY, INC.,)
FOR APPROVAL OF AN ENERGY)
EFFICIENCY PROGRAM, INCLUDING)
FUNDING AND DECOUPLING)
MECHANISMS, PURSUANT TO I.C. 8-1-2.5-1,)
ET. SEQ.)

CAUSE NO. 43995

APPROVED: NOV 30 2011

ORDER OF THE COMMISSION

Presiding Officers:
Kari A.E. Bennett, Commissioner
Loraine L. Seyfried, Chief Administrative Law Judge

On February 21, 2011, Midwest Natural Gas Corporation (“Midwest”), Indiana Utilities Corporation (“Indiana Utilities”), South Eastern Indiana Natural Gas Company, Inc. (“South Eastern”), Fountaintown Gas Company, Inc. (“Fountaintown”), Community Natural Gas Company, Inc. (“Community”), Boonville Natural Gas Corporation (“Boonville”), Indiana Natural Gas Corporation (“Indiana Natural”), and Switzerland County Natural Gas Company, Inc. (“Switzco”), (collectively “Joint Petitioners” or “Small Gas Consortium”), filed their Verified Joint Petition seeking approval of an alternative regulatory plan (“ARP”) authorizing each of the Joint Petitioners to implement an energy efficiency program with accompanying funding and decoupling mechanisms. On February 25, 2011, Joint Petitioners filed the direct testimony and exhibits of Duane C. Mercer and Kerry A. Heid in support of the Verified Joint Petition and constituting the Joint Petitioners’ case-in-chief in this matter.

On March 30, 2011, the Commission issued a Prehearing Conference Order establishing a procedural schedule in this Cause. The procedural schedule was subsequently modified on several occasions at the request of the parties. On August 18, 2011, the parties advised the Commission that a settlement had been reached. On September 8, 2011, the parties filed a Stipulation and Settlement Agreement (“Settlement”) and the testimony and exhibits of Duane C. Mercer, Kerry A. Heid, Bonnie J. Mann, and Bradley E. Lorton supporting such Settlement. On October 3, 2011, Joint Petitioners filed their response to a September 29, 2011 Docket Entry.

Pursuant to notice as provided by law, proof of which was incorporated into the record, an evidentiary hearing in this Cause was held on October 4, 2011, at 1:30 p.m. in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, representatives of the Joint Petitioners and the OUCC were present and participated. The Joint Petitioners offered the direct testimony and exhibits of Duane C. Mercer and Kerry A. Heid, along with the settlement testimony and exhibits of Duane C. Mercer, Bonnie J. Mann, and Kerry A. Heid. The OUCC offered the settlement testimony of Bradley E. Lorton. Additionally, the parties offered their Settlement as Joint Exhibit 1. All testimony and exhibits were admitted into the record without objection. No member of the general public appeared or sought to participate in these proceedings.

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

1. **Notice and Jurisdiction.** Due, legal and timely notice of the public hearings was given and published as required by law. Each of the Joint Petitioners is a public utility as defined by Indiana Code § 8-1-2-1. Further, each of the Joint Petitioners is an energy utility as defined by Indiana Code § 8-1-2.5-2. Finally, each of the Joint Petitioners has voluntarily elected to become subject to Indiana Code ch. 8-1-2.5, for purposes of requesting and establishing this ARP. Therefore, the Commission has jurisdiction over each of the Joint Petitioners and the subject matter of this Cause.

2. **Petitioners' Characteristics.** Each of the Joint Petitioners provides natural gas distribution service to customers in their respective service areas. Collectively, these Joint Petitioners provide natural gas service to approximately 40,000 customers in various designated areas of Jennings, Jackson, Washington, Scott, Orange, Daviess, Greene, Knox, Monroe, Clark, Harrison, Floyd, Dearborn, Ripley, Decatur, Hancock, Henry, Rush, Shelby, Gibson, Posey, Dubois, Spencer, Pike, Warrick, Owen, Sullivan, Lawrence, Brown, Bartholomew, Crawford, Jefferson and Switzerland Counties, Indiana.

3. **Relief Requested.** Joint Petitioners seek authorization to implement a common energy efficiency program ("EEP") with accompanying common funding and decoupling mechanisms as described by the Settlement and evidence of record. Each proposes to use common information, forms and rebates, and to collect common data for purposes of promoting, testing, and reporting on the EEP. Each proposes to implement such energy efficiency program with accompanying funding and decoupling mechanisms for their respective residential customers following further individual utility filings with, and approval by, the Commission.

4. **Evidence of the Parties.**

A. **Settlement.** Joint Petitioners and the OUCC entered into a Settlement that describes the EEP to be established by each of the utilities. The EEP will include residential rebates for furnaces and programmable thermostats; energy efficiency measure kits directly promoted by each of the Joint Petitioners; a teacher/student education program for fifth grade elementary students; a low income weatherization program for residential customers who are at or below 200% of the federal poverty guidelines; internal administration and training on the EEP

and its goals, including creation of common rebate forms, customer information, and common data collection procedures; agreement as to initial and future testing and review; and establishment of a Small Gas Consortium Oversight Board (“SGC Oversight Board”).

The Settlement also provides for the establishment of a common energy efficiency funding component (“EEFC”) of approximately \$10 per residential customer per year and a commitment of additional funding through funds flowing from the net operating income of each of the participating utilities generally established through the normal temperature adjustment (“NTA”) proceedings. Joint Petitioners have agreed to commit to reduce residential energy usage by a minimum of 1% during each year of this initial three year pilot period to be determined on a net basis. Each Joint Petitioner will implement a new tariff which includes a decoupling mechanism, the Sales Reconciliation Component (“SRC”). The Settlement also establishes annual reporting requirements to the Commission, both on a collective basis and an individual utility basis, which includes information related to the meeting and conclusions of the SGC Oversight board, each utility’s EEP, expenditure of funds, and calculation of each utility’s respective SRC.

Finally, the Settlement provides the EEP will be established as a three year pilot program, with implementation commencing as soon as possible following future individual utility filings with the Commission.

B. Joint Petitioners’ Evidence.

1. Direct Evidence. Duane C. Mercer, a partner with London Witte Group, LLC, stated Joint Petitioners are small gas utilities that have voluntarily joined together to seek Commission approval to implement a common energy efficiency program in an effort to encourage customers in finding ways to reduce energy usage. Mr. Mercer testified that he believes a common energy efficiency program, with common funding and decoupling mechanisms, is an appropriate means of establishing an effective and reasonable energy efficiency program for these small gas utilities at a reduced regulatory cost. He noted that such a collaborative approach using a common format had previously been used successfully in the NTA proceedings.

Mr. Mercer indicated each of the Joint Petitioners is similar to each other. Each serves natural gas customers in southern Indiana in similar small communities, has a similar corporate and operating organization, meets routinely with its respective customers through its respective officers and employees. Furthermore, Joint Petitioners have a history of working together on similar issues. He also testified as to his belief that natural gas prices will continue to increase and become more volatile making this an excellent time to implement energy efficiency measures. Consequently, he concluded that a common energy efficiency program would be appropriate for the Joint Petitioners.

Mr. Mercer also described why he believes Joint Petitioners’ implementation of an energy efficiency program would meet the statutory requirements of an ARP. Citing the Hoosier Homegrown Energy Plan, the potential savings for customers through reduced usage, the improved opportunity for utilities to recover their authorized rate revenue, and the benefits to the

State of Indiana as a whole, he concluded that the proposed ARP was in the public interest and should be approved.

Kerry A. Heid, an independent utility rate consultant, discussed the need to eliminate regulatory financial bias against energy efficiency and conservation. He began by describing the paradigm of local gas distribution companies, where financial success, due to the current authorized revenue structure, is directly dependent on gas volume sales. He pointed out that these gas companies maintain significant infrastructure to provide customer service, to administer various accounting and billing systems, and to provide other internal and external services. He indicated that the costs of maintaining such infrastructure are fixed costs.

Mr. Heid testified that traditional utility regulation creates a paradigm where a utility's revenues are directly dependent on customer gas consumption. He stated this causes a financial disincentive for the utilities to encourage its customers to use less gas. Consequently, Mr. Heid testified it was important for the Commission to provide timely cost recovery of energy efficiency-related costs. He went on to summarize the widespread support for creating incentives or removing the financial bias hindering the promotion of energy efficiency through alternative regulatory mechanisms, including the National Energy Policy Act of 1992 and resolutions adopted by the National Association of Regulatory Utility Commissions.

Mr. Heid also expressed his familiarity with recent Commission orders on energy efficiency measures and various funding and decoupling mechanisms. He concluded there is widespread support among utilities, regulators, legislators, and environmental advocates for removing the existing financial bias and regulatory barriers in order to encourage natural gas utilities to participate in energy efficiency programs. Noting that the Commission has already approved energy efficiency programs, along with accompanying funding and decoupling mechanisms, for the large natural gas companies operating in Indiana, he encouraged the Commission to allow a similar program for these Joint Petitioners.

Mr. Heid described Joint Petitioners proposal for the recovery of costs associated with the energy efficiency program and the decoupling of the Joint Petitioners' margins from the commodity cost. He stated the funding mechanism, or EEFC, is designed to fund the estimated costs of the various elements of the EEP being proposed. Mr. Heid stated the decoupling mechanism, or SRC, is an annual calculation of the actual margins recovered, reconciled against the margins approved by the Commission in an appropriate rate proceeding. He described the method of the annual reconciliation, which begins with the Commission's order relating to a Joint Petitioner's operating margins, adjusting those margins for new customers being served, and creating an order granted margin per customer. This order granted margin per customer would be compared annually to the actual margins per customer each of the individual utilities recover. Any under-recovery would be recovered over the following 12-month period. Any over-recovery would be refunded over this same 12-month period. The reconciled annual difference would be divided by projected sales volume to determine an appropriate charge or refund through the SRC. Mr. Heid also noted that Joint Petitioners were specifically requesting approval of the deferral of SRC amounts to be reconciled and subsequently recovered or refunded in order to implement the SRC.

Finally, Mr. Heid opined that the ARP would be beneficial to the energy utility and its customers, along with the State of Indiana. He testified the proposed ARP would put Joint Petitioners on the same or equal footing with other providers of energy services in Indiana. He pointed out that the utilities' assistance to their customers through education, rebates, or financial assistance would help reduce energy usage. In light of the fact that approximately 70% of every monthly bill relates to the commodity cost of gas, any reduced usage would provide immediate financial benefit to Joint Petitioners' customers. Mr. Heid, citing to prior Commission orders approving similar ARPs, concluded Joint Petitioners' proposal was in the public interest.

2. Settlement Evidence. Mr. Mercer testified that as a result of several technical conferences with the OUCC, the parties reached agreement on the specific portfolio of energy efficiency programs to be offered. He indicated the programs are modeled after those used by Vectren Energy Delivery of Indiana, Inc. ("Vectren") because Joint Petitioners are located within the same geographic area in the state. He stated Joint Petitioners are proposing to make the programs initially available only to residential customers to keep the programs as simple as possible and because residential customers make up 80% or more of the utilities' total customers. Mr. Mercer sponsored Exhibit DCM-1, which is the Small Gas Consortium Energy Efficiency Budget ("Efficiency Budget") reflecting a collective estimated annual spending amount of \$363,400. Appendix A of that exhibit also provides a break-out of estimated expenditures for each utility. Mr. Mercer also sponsored Exhibit DCM-2 which reflects the results of cost benefit testing conducted for these Joint Petitioners by Terra Vista Energy Group LLC ("Terra Vista") following direction from the OUCC.

Bonnie J. Mann, a certified public accountant with London Witte Group, LLC, testified the EEP will consist of the following four sub-programs: a residential rebate program, a direct energy efficiency kit program, a teacher/student education program, and a low income weatherization program. Ms. Mann explained the residential rebate program is focused on providing both education and rebates to influence customers to purchase and install high efficiency furnaces and programmable thermostats. A \$200 rebate for furnaces that meet 94% Annual Fuel Utilization Efficiency will be offered, and a \$25 rebate for programmable thermostats will be offered. Evidence of both purchase and installation will be required by each utility through receipts, returned surveys, and spot checks. Ms. Mann testified marketing of this program will be done through bill inserts, product fact sheets, employee communications, and material provided on each utility's website.

Ms. Mann explained the direct energy efficiency kits will include high efficiency showerheads, faucet aerators, or other energy saving replacement parts deemed appropriate by the SGC Oversight Board. The kits will be promoted to Joint Petitioners' residential customers through direct marketing by each of the utilities. Mr. Mercer testified that because Joint Petitioners are small and locally owned, they have a unique relationship with their customers. He noted that one of the Joint Petitioners recently obtained a 40% response from its customers on a survey involving pipeline safety awareness. Consequently, he indicated, Joint Petitioners believe that a similar campaign, coupled with educated employees communicating directly with their customers about energy efficiency, followed-up by the direct distribution of the energy efficiency kits, and verification as to usage and installation, is an appropriate and effective method for achieving success with this program.

Ms. Mann testified the teacher/student education program will be modeled after the program currently in place by Vectren through the National Energy Foundation (“Foundation”). She stated this program is designed to provide educational materials to fifth grade students in schools within each of the Joint Petitioners’ service territories. Joint Petitioners will identify elementary schools with fifth grade classrooms and forward this information to the Foundation. The Foundation will recruit teachers, provide educational materials, and follow-up through the schools to determine if the energy savings information has been shared with the students’ parents. The Foundation will then provide information on their follow-up survey for reporting to the SGC Oversight Board and the Commission.

Finally, Ms. Mann testified the low income weatherization program is designed to work directly with the various local community action program agencies (“CAP” agencies) that provide services to residential customers within their respective service territories. The individuals to be served through this program would be those with household incomes up to 200% of the federal poverty guidelines, specifically identified by the local CAP agencies. She stated the local CAP agencies will manage the weatherization upgrades through local contractors, but once weatherization has been completed, the individual utilities will inspect the work to make sure that weatherization has been completed correctly. Ms. Mann testified Joint Petitioners believe that low income weatherization is a significant way to provide long term energy savings, particularly to customers who lack the resources sufficient to provide weatherization on their own.

With respect to administration of the four sub-programs, Mr. Mercer stated that actual administration of the teacher/student education program will be through the National Energy Foundation. The administration of the low income weatherization program will be through local CAP agencies. The remaining two programs—residential rebate programs and direct energy efficiency kits—will be individually administered by each utility. In that regard, Mr. Mercer noted each of the Joint Petitioners has already been involved in administering similar programs and interacts directly on a daily basis with its customers. He further noted the Joint Petitioners are committed to training all of their employees on the EEP and its goals before it is implemented. He stated because Joint Petitioners will be utilizing standard formats for rebates, direct mail campaigns, and common information on energy efficiency and the conservation of energy, and recognizing that this is a pilot program with expected guidance from the SGC Oversight Board, Joint Petitioners do not believe additional outside administration is required.

Both Mr. Mercer and Ms. Mann point out that an oversight board will be established. The SGC Oversight Board will be made up of all eight utilities and the OUCC. Appendix B to Joint Petitioners’ Exhibit DCM-1 contains the Governance Provisions of the SGC Oversight Board, which Ms. Mann indicated were designed to create and maintain a collaborative approach to providing guidance on the implementation of, and necessary changes to, the initial energy efficiency programs. She testified that the SGC Oversight Board will meet periodically to review implementation of the EEP.

Ms. Mann testified the EEP is cost effective. She stated the cost benefit testing performed by Terra Vista indicates the Total Resource Cost (“TRC”) for the EEP exceeds 2.0 for

the entire portfolio, and all sub-programs except the low income weatherization exceed 1.0. Additionally, Mr. Mercer noted that Joint Petitioners have agreed to conduct evaluation, measurement, and verification (“EM&V”) of the energy programs on an annual basis. Such EM&V will assure the continued cost effectiveness of the EEP. Also, by agreement of the parties, the EM&V program will be conducted by an independent third party selected by the SGC Oversight Board.

To fund the EEP, and assure future EM&V reviews, Ms. Mann testified that funds will be provided from two different sources. The EEFC of each utility’s tariff will provide funds from a monthly prorated annual charge of \$10 per customer. Mr. Heid testified the flat monthly charge was a change from Joint Petitioners’ initial proposal of a customer charge based upon actual costs in an effort to simplify the administration of this initial pilot program. The EEFC is anticipated to create annual funds of \$363,400, as estimated to be required by the Efficiency Budget, once all of the utilities have established the EEFC. Additional funding for the EEP will come from a reallocation of NTA funds previously committed by each of these Joint Petitioners, with the exception of Switzco, through their NTA proceedings. However, Mr. Mercer indicated that a pro rata share has been calculated for Switzco as part of the Settlement. Mr. Mercer stated the parties anticipate this will provide an additional \$50,000 in funding.

Because a lag will occur between Commission approval of the proposed EEP, with accompanying funding and decoupling mechanisms, and the actual implementation of the EEP due to the need for further filings with the Commission consistent with the Commission’s Order in Cause No. 43180, Mr. Mercer explained that implementation is expected to begin for some of the utilities by the spring of 2012, and implementation to have begun for all of Joint Petitioners by 2013. Due to the need to have sufficient data for future EM&V testing and reporting to the Commission, Mr. Mercer anticipates that the first report to the Commission will occur during the fall of 2013. However, he notes that prior to implementation, all of the utilities that make up the Joint Petitioners will be working with the OUCC to develop common information and standard forms; participating in the SGC Oversight Board; and through representatives, participating in the joint oversight board meetings of other Indiana natural gas utilities.

C. OUCC’s Evidence. Bradley E. Lorton, utility analyst for the OUCC, indicated that establishing joint energy efficiency programs for a consortium of small gas utilities is a unique opportunity for the State of Indiana. He described the obstacles faced by Joint Petitioners and how the parties focused on ways to maximize the energy savings based upon the available funds for the EEP. He stated this focus resulted in agreement on the form of administration and the elimination of the need for a market potential study. The Settlement also provides for the EEP to be a three year pilot program and the establishment of the SGC Oversight Board to assure the effectiveness of the program while protecting the consumers of the separate small gas utilities. He also noted that the programs are similar to the programs already in place by other natural gas utilities here in Indiana.

Mr. Lorton noted the testing performed by Terra Vista reflects a TRC of 2.03 for the total portfolio. He further noted that the testing showed the planned water heater rebate program was not cost effective. However, because Joint Petitioners believe the water heater program currently in existence for these utilities is necessary in their service territory to keep customers on their

systems, particularly during non-heating months, the parties agreed that the water heater program could continue through the separate NTA funds used by these Joint Petitioners.

He described the agreement between Joint Petitioners and the OUCC that each Joint Petitioner, with the exception of Switzco and Fountaintown, will be filing new rate cases to implement the EEP and associated tariff changes in the coming months. As to Switzco and Fountaintown, he noted that both utilities had recently received orders from the Commission approving base rates. He indicated the OUCC agreed that an appropriate modification of the existing tariffs for Switzco and Fountaintown can be accomplished through a tariff filing with the Commission.

He concluded the Settlement was in the public interest, and the OUCC recommended the Commission approve the Settlement.

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 Coalition v. PSI Energy*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission “may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement.” *Citizens Action Coalition*, 664 N.E.2d at 406.

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

As we consider the evidence of record, we note that the Commission has previously found similar energy efficiency programs with accompanying funding and decoupling mechanisms to be appropriate and in the public interest. (See e.g., *Southern Ind. Gas and Elec. Co.*, Cause No. 43112 (IURC Aug. 1, 2007); *Ind. Gas Co., Inc.*, Cause No. 43298 (IURC Feb. 13, 2008); and *Citizens Gas & Coke Util.*, Cause No. 42767 (IURC Oct. 19, 2006). Further, we have found these programs are also appropriate for small gas utilities. (See e.g., *Westfield Gas*, Cause No. 43624 (IURC March 10, 2010). Thus, at the outset, we note the Commission has approved, and expressed support for, specific utility portfolios of energy efficiency programs that are designed for specific customer classes and shown to be cost effective through regulatory review and appropriate EM&V. We also note that the previously approved programs began as pilot programs and have evolved over time, often due to the recommendations of their specific oversight boards.

This cause was initiated by a petition executed by eight small gas utilities participating as Joint Petitioners. After several collaborative meetings, the Joint Petitioners and the OUCC have presented for Commission approval a Settlement, a copy of which is attached and incorporated herein, containing a specific portfolio of common energy efficiency programs to be implemented by all eight utilities. The parties propose that the utilities be authorized, following further filings with the Commission, to provide residential rebates for furnaces and programmable thermostats, energy efficiency measure kits to their residential customers, teacher/student education programs for elementary schools in their service territories, and low income weatherization opportunities through local CAP agencies.

Based on the evidence presented, and as set forth more specifically below, the Commission finds the proposed EEP to be reasonable and in the public interest. The Settlement strikes an appropriate balance between offering a valuable array of energy efficiency offerings and recognizing any budget increases will greatly diminish the cost effectiveness of the overall program. The Joint Petitioners' initial cost effectiveness testing demonstrates the overall cost effectiveness of the proposed EEP.¹ The parties have also indicated that through the direction of the SGC Oversight Board, independent EM&V review, and annual filings with the Commission, they expect to be able to assure the continued cost effectiveness of the EEP. Joint Petitioners have also committed to making any appropriate and necessary changes during the pilot period.

Rather than undertake a market potential study, Joint Petitioners have modeled their initial EEP after similar programs currently being offered by Vectren in the same geographic area of the state. They have also chosen to limit the program offerings to their residential customers, which comprise the majority of their customers, in an effort to simplify their initial foray into establishing a formal energy efficiency program. However, Joint Petitioners also expressed a willingness to expand programs to other customer classes once sufficient experience has been obtained through this pilot program. Because smaller utilities have smaller customer bases upon which to allocate program costs, the costs of conducting a market potential study would have more of an impact on the overall cost effectiveness than it would for larger utilities. Consequently, given that Joint Petitioners' proposed EEP contains programs that have been successfully offered by a larger utility within the same general service area, we find the parties' approach to program design in this instance to be reasonable.

The Settlement also contemplates implementation of the EEP through a combination of third party administration and self-administration, along with the participation of the Joint Petitioners and the OUCC through the SGC Oversight Board. While most of the Joint Petitioners have some experience administering a rebate program, such experience does not necessarily qualify them to administer other efficiency programs. However, because Joint Petitioners are locally owned and operated and have a unique relationship with their customers, and due to the cost implications discussed above, the Commission finds the proposed administration of the EEP to be reasonable and in the public interest.

¹ Although the parties ultimately agreed to remove the water heater rebate program from the proposed EEP based upon the OUCC's objection to its inclusion, we note that the mere fact a TRC score indicates a program is not cost effective is not conclusive evidence that the program will not be cost effective based upon particular circumstances or otherwise in the public interest to implement. *See e.g., Ind. Mich. Power Co.*, Cause No. 43959 (IURC July 13, 2011).

The Settlement and supporting evidence provides for funding of the EEP at an annual cost of approximately \$10 per customer and a decoupling mechanism to be implemented in the context of a base rate case. Because two of the participating utilities, Switzco and Fountaintown, have recently established new base rates and they believe little has changed, the parties agreed implementation of the EEP, along with the EEFC and SRC, could be accomplished through an additional filing in a docketed proceeding by the end of the year, which would give the Commission the opportunity to review current margins and approve amendments to their respective tariffs. The remaining utilities have already filed, or will file by early 2013, a new base rate case proceeding and request authority to implement the EEP, EEFC and SRC approved herein. We find this approach to the implementation of an appropriate energy efficiency program for these eight individual utilities to be reasonable and consistent with the Commission's directives concerning implementation of decoupling mechanisms in Cause No. 43180.

The parties also agreed that the proposed EEP would be limited to a three year pilot program. Although the Settlement does not specify the dates for the three year period, it does anticipate a sufficient number of Joint Petitioners will have begun implementation of the EEP by April 1, 2012, allowing for sufficient EM&V data to be available by the summer of 2013. Therefore, the Commission finds the three year pilot period for the EEP shall be from April 1, 2012 through March 30, 2015. If Joint Petitioners want to extend the duration or modify the EEP, Joint Petitioners shall file a new proceeding seeking such relief by October 1, 2014.

Finally, the Settlement provides that the Joint Petitioners will report annually to the Commission beginning in the fall of 2013. The annual reports will include information from each of the participating utilities as to their individual implementation of the EEP, expenditure of funds and individual calculations for their respective SRC. Information from the EM&V annual review, along with the discussions held and conclusions reached by the SGC Oversight Board through its periodic meetings, will also be included. We find this annual reporting to be reasonable and appropriate for the initiation of this ARP as a pilot program. The annual reports shall be filed under this Cause and within 90 days of the end of the June fiscal year, and shall follow the format provided in Attachment A to this Order. In addition, because Joint Petitioners will use NTA funding for the EEP, the Commission finds each Joint Petitioner shall also file a copy of its annual NTA compliance filing in this Cause.

The evidence before us reveals that all eight utilities have cooperatively participated in the filing of this Joint Petition and will continue to participate collaboratively in the establishment of common materials, meetings of the SGC Oversight Board, and providing a portion of the NTA funds to the SGC Oversight Board for its determination of usage in the EEP. We are cognizant of the significant effort and commitment each of these utilities has undertaken in seeking to establish reasonable and appropriate energy efficiency programs.

Unlike electric service, natural gas service is a utility of choice. A residential customer does not require gas in the same fashion as electricity. Consequently, in the rural areas these small gas utilities serve, they are constantly competing for new customers with the electric service providers. In compliance with the Commission's Phase II Order under Cause No. 42693,

competitor electric utilities will soon begin offering the types of energy efficiency programs contained in the EEP. Thus, the Commission finds it appropriate for Joint Petitioners also to offer such programs. Additionally, we are encouraged by the parties' efforts in obtaining the ability of the SGC Oversight Board to participate on the current Joint Oversight Board utilized by the large gas utilities. We believe this to be beneficial to the public in terms of achieving some statewide consistency in basic program offerings and administration.

Based on the evidence of record, we find the Settlement to be reasonable, consistent with the purposes and requirements of the Public Service Commission Act, and in the public interest for purposes of establishing alternative regulatory practices. As such, we find the Settlement, a copy of which is attached and incorporated herein, should be approved.

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

1. The Stipulation and Settlement Agreement shall be and hereby is approved.
2. Each of the Joint Petitioners is authorized to implement the above-described common energy efficiency program with accompanying funding and decoupling mechanisms following Commission approval of new base rates, or in the case of Switzco and Fountaintown following approval of further tariff filings with the Commission in a separately docketed proceeding consistent with our findings above.
3. Annual reports to the Commission shall be filed under this Cause and within 90 days of the end of the June fiscal year, and shall follow the format provided in Attachment A to this Order. With the submission of its annual report, each Joint Petitioner shall also file a copy of its annual NTA compliance filing.
4. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: NOV 30 2011

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



**Brenda A. Howe,
Secretary to the Commission**

ATTACHMENT A

ANNUAL REPORTING REQUIREMENTS

Program Category	Annual Report Requirements
1. Residential Rebate	Annual allocation, number of thermostats rebated, cost of thermostats rebated, number of furnaces rebated, cost of thermostats rebated, total program cost, residential energy usage (MMBTUs), savings generated from the residential rebate program.
2. Direct Energy Efficiency Measure Kits	Annual allocation, number of kits distributed, cost of kits distributed, mailing costs, total program cost
3. Teacher/Student Education	Annual allocation, number of children impacted, cost of educational materials distributed, NEF administration costs, total program cost
4. Low Income Weatherization	Annual allocation, number of homes weatherized, cost of home weatherization, average home weatherization cost, CAP Agencies administrative costs, total program cost
5. Internal Administration	Annual allocation, mail costs, marketing costs, EM&V costs
EEP total	Total budget and amount spent per program 1-5 above, meeting minutes of the SGC Oversight Board

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ET. SEQ.)

STIPULATION AND SETTLEMENT AGREEMENT

Midwest Natural Gas Corporation (“Midwest”), Indiana Utilities Corporation (“Indiana Utilities”), South Eastern Indiana Natural Gas Company, Inc. (“South Eastern”), Fountaintown Gas Company, Inc. (“Fountaintown”), Community Natural Gas Company, Inc., (“Community”), Boonville Natural Gas Corporation (“Boonville”), Indiana Natural Gas Corporation (“Indiana Natural”), and Switzerland County Natural Gas Company, Inc. (“Switzerland County”), (collectively, “Joint Petitioners”), along with the Office of Utility Consumer Counselor (“OUCC”), have met through their respective representatives on numerous occasions to discuss the evidence of record, information exchanged through informal discovery, the proposed common energy efficiency program of the Joint Petitioners, the proposed energy efficiency funding and decoupling mechanisms of the Joint Petitioners, and the results of certain cost efficiency testing completed on behalf of the Joint Petitioners by a third party. The result of such discussions and negotiations among the Joint Petitioners and the OUCC (hereinafter collectively,

the “Parties”) is a settlement of all issues in this cause as described by this Settlement Agreement (hereinafter the “Settlement”).

The Parties believe that the evidence of record as supplemented by the testimony and exhibits of witnesses Mercer, Mann, Heid, and Lorton support the terms of this Settlement. The Parties acknowledge that the terms and conditions of this Settlement are the result of extensive negotiation among the Parties relative to the positions each has taken or would take in further proceedings in this cause. In the interest of efficiency, saving the limited resources of the regulatory bodies involved, and recognizing the reasonableness of the overall results produced by the Settlement, the Parties herein stipulate to and agree as follows:

1. **Jurisdiction.** Joint Petitioners have sought relief under Indiana Code § 8-1-2.5-1, *et seq.*, (“Alternative Utility Regulations” or “ARP”). Each utility participating collectively as one of the Joint Petitioners is an energy utility as defined by the ARP statute. The Commission has jurisdiction under such statute to grant the relief requested by the Joint Petitioners’ Verified Joint Petition filed on February 21, 2011, and as further supported by the evidence of record and the Settlement.

2. **Energy Efficiency Program.** The Joint Petitioners agree to a three (3) year pilot program in which each utility will establish a common Energy Efficiency Program (“EEP”) with standard elements. Such Energy Efficiency Program will include residential rebates, direct energy efficiency measure kits, teacher/student education, low income weatherization, internal administration, appropriate testing and evaluation, common customer outreach/marketing programs, and a joint oversight board (“SGC Oversight Board”). Specific details of the EEP are described by the Small Gas Consortium Energy Efficiency Budget, the Indiana Small Gas Consortium DSM Program Analysis, and the testimony and exhibits of Joint Petitioners’

witnesses Mercer, Mann, and Heid incorporated by referenced herein. A brief summary of each element of the EEP is described below:

- a. **Residential Rebate.** The residential rebate program is designed to increase awareness of and installation of energy efficient technologies by residential customers. This program includes standard rebates for energy efficient furnaces capable of reaching 94% AFUE, and programmable thermostats. Common customer information will be utilized to encourage the use of such rebates.
- b. **Direct Energy Efficiency Measure Kits.** The energy efficiency measure kit program will include appropriate energy efficiency measures, such as energy saving information, showerheads, faucet aerators, or other energy efficiency tools deemed appropriate by the SGC Oversight Board. The kits will be directly promoted by each of the Joint Petitioners through bill inserts, mass marketing, and direct mail campaigns to their respective residential customers. These kits will be directly distributed by each of the Joint Petitioners through their respective offices, their respective employees, and by direct mail.
- c. **Teacher/Student Education.** An education program for fifth grade elementary students will be established by each of the Joint Petitioners working directly with the National Energy Foundation. The Foundation currently administers a similar program for Vectren Energy, NIPSCO, and Citizens Gas.

- d. **Low Income Weatherization.** Each of the Joint Petitioners will seek a partnership with their respective community action program (“CAP”) agency to identify, assess, and thereafter assist in the installation of weatherization for residential customers who are at or below 200% of federal poverty guidelines. Each local CAP agency will be asked to administer such program. Each of the Joint Petitioners will assess the work once completed to ensure appropriate weatherization has been accomplished.
- e. **Internal Administration.** Each of the Joint Petitioners will establish internal programs to train all employees on the EEP and to implement common rebate forms, common customer information on energy efficiency, and common procedures for data collection for future EM&V testing and reporting to the Commission. All such common forms will be reviewed and approved by the SGC Oversight Board.
- f. **Testing.**
- (1) **Cost Effectiveness.** The elements of the EEP have been tested through a cost benefit analysis performed by a third-party provider—Terra Vista Energy Group, LLC. The third-party provider has, following testing, concluded that the EEP is beneficial based on a total resource cost testing and analysis (“TRC”) which reflects that the total program scores a TRC of 2.03. The individual elements of the EEP have also been tested by Terra Vista Energy Corp., LLC’s analysis.

(2) **Evaluation, Measurement and Verification.** Evaluation, measurement, and verification (“EM&V”) will be completed by a third party selected by the SGC Oversight Board. EM&V will begin once a critical mass of customers exists following the implementation by a sufficient number of the Joint Petitioners. The Parties believe that subject to further orders of the Commission, a sufficient number of the Joint Petitioners will have begun implementation of the EEP on or about April 1, 2012. The Parties further agree that a sufficient amount of data from significant critical mass of customers will require 12 months of data following the initiation of implementation. The Parties currently anticipate that sufficient data will be available by the summer of 2013, with the ability to test such data and report the results of such testing to the Commission by the fall of 2013.

(3) **Funding of Testing.** Though implementation of the programs will be staggered, the Parties agree that it is critical that appropriate funding for future EM&V testing be assured. Therefore the Parties have agreed that each of the Joint Petitioners will participate on a pro rata basis in the costs associated with EM&V testing, through funds reallocated from their respective NTA proceedings.

g. **SGC Oversight Board.** A Small Gas Consortium (“SGC”) Oversight Board shall be established which will include one representative of each of the Joint Petitioners and representatives from the OUCC as determined by

the OUCC. The governance of the SGC Oversight Board is described in the governance provisions included in the Small Gas Consortium Energy Efficiency Budget Exhibit DCM-1. The SGC Oversight Board will meet periodically to review the implementation by each of the Joint Petitioners, the results obtained from such implementation, provide guidance to the Joint Petitioners or any individual utility of the Joint Petitioners as to the EEP, review and consider reallocation of EEP funds among the various programs, or such other matters as the members of the SGC Oversight Board believe are appropriate to be considered by the SGC Oversight Board as part of the Joint Petitioners' EEP. The SGC Oversight Board will also meet at least three (3) months prior to the expiration of the initial three (3) year pilot period to recommend whether the EEP should continue beyond the initial three (3) year pilot period. While awaiting Commission approval of this Settlement Agreement which would establish the SGC Oversight Board, the Joint Petitioners and the OUCC agree to informally collaborate on all matters that fall within the subject matter of this Settlement Agreement.

3. **EEP Funding.** The anticipated annual funding of the EEP programs is estimated to require \$363,400. The estimated collection of such funds and the allocation of such funds is set forth in the Small Gas Consortium Energy Efficiency Budget, Exhibit DCM-1. Each of the Joint Petitioners will establish an energy efficient funding component ("EEFC") through their respective tariffs as described below.

Additional funds will be committed to the EEP from NTA funds currently committed by the participants of the Joint Petitioners here. Since no NTA funds were established for Switzerland County, the Parties have established a pro rata share of such funds based upon the prior NTA calculations. Within 30 days of a Final Order in this Cause, Joint Petitioners will complete an accounting of the NTA funds expended thus far. Any NTA funds that have not been expended as of this accounting or continued to be used as described below will be used to fund the initial startup costs and any marketing expenses necessary to implement the EEP.

The Joint Petitioners may continue to use NTA funds at a level not to exceed the current level of funding, to provide water heater rebates. All other NTA funds, including any allocated funds that are not expended on the water heater rebate program shall be provided to the Oversight Board for its determination of usage in the EEP, focusing initially on assuring that funds are available for future testing of the EEP and to fund energy efficiency initiatives. The Parties anticipate that these additional funds will provide an additional \$50,000.

The EEP funds shall be allocated on an annual basis and any funds that are not expended during the one year period shall roll over to the following year for continued use in funding energy efficiency. Should the EEP ever cease to exist, all remaining funds allocated to the EEP from the EEFC shall be returned to the residential ratepayers.

4. **EEFC**. The EEFC will be established for each of the Joint Petitioners by a filing with the Commission of a new tariff in accordance with Exhibit KAH-5. Each tariff is anticipated to create a charge of approximately \$10 per customer per year as further described in the Small Gas Consortium Energy Efficiency Budget Exhibit DCM-1. Such tariff will follow a separate base rate case for each of the Joint Petitioners, except for Switzerland County and Fountaintown. Switzerland County and Fountaintown will file a coordinated and/or combined

proceeding based on its recently established base rates as described under “Implementation” below.

5. **Decoupling Mechanism.** The parties have agreed to establish a decoupling mechanism and the Joint Petitioners have agreed to commit to reduce residential energy usage by a minimum of 1% during each year of this initial three (3) year pilot period. Such efficiency shall be determined on a net basis. In establishing the decoupling mechanism, each of the Joint Petitioners will file a new tariff which includes a decoupling mechanism (“Sales Reconciliation Component” or “SRC”) in accordance with KAH-5. The SRC will be filed following the base rate cases of each of the Joint Petitioners with the exception of Switzerland County and Fountaintown as described under “Implementation” below.

6. **Implementation.** Each of the Joint Petitioners will implement the EEP as soon as possible following the approval by the Commission of new base rates. Two of the participants in the Joint Petitioners have now filed such base rate cases. Two additional participants--Switzerland County and Fountaintown--have recently established new base rates. The Parties believe that few changes to Switzerland County or Fountaintown’s base rates are currently required. Therefore, the Parties have agreed that Switzerland County and Fountaintown can file a proceeding with the Commission to establish the recovery of appropriate margins, and appropriate tariffs, including an EEFC and SRC. Such proceeding is anticipated to be filed in a coordinated and/or combined, filing following further discussion with the OUCC, by December 31, 2011. The remaining participants in the Joint Petitioners are expected to file new base rate proceedings by 2013.

7. **Reporting to the Commission.** The Joint Petitioners will make an annual filing with the Commission as the Joint Petitioners relating to the implementation of the EEP. Such

annual filing will include information on the results of each utility's EEP, expenditure of funds, and the calculation of an appropriate SRC for each utility. Such annual filing will also include information related to meetings, discussions, and conclusions of the SGC Oversight Board. The initial annual filing for these Joint Petitioners is anticipated to be made in 2013.

8. **Public Interest.** The Parties agree that the proposed EEP is in the public interest. The Parties agree that the EEP proposed by these Joint Petitioners is an appropriate program to create energy efficiency opportunities for the residential customers of these Joint Petitioners. The Parties also agree that the EEP and its accompanying EEFC and SRC are beneficial to each of these Joint Petitioners. The Parties agree that the EEP and its accompanying EEFC and SRC are beneficial to the State of Indiana and its goals as described by the Hoosier Homegrown Energy Plan.

9. **Request for Prompt Approval by the Commission.** The Parties acknowledge that they have spent significant time and effort to resolve the issues raised by the Joint Petitioners' Verified Petition. The Joint Petitioners have agreed to a number of the proposed changes suggested by the OUCC. In recognition of the need to implement energy efficiency programs in the service territories of these Joint Petitioners, the Parties jointly request prompt approval of the Settlement by way of a final order of the Commission.

10. **Sufficiency of the Evidence.** The Parties believe that the Joint Petitioners' case-in-chief, supplemented by the Joint Petitioners' supplemental settlement testimony and exhibits, along with the testimony filed by the OUCC, and this Settlement Agreement, constitute substantial evidence sufficient to support the Settlement and provide an adequate evidentiary basis upon which the Commission can make findings of fact and conclusions of law necessary for an order adopting and approving this Settlement pursuant to Ind. Code § 8-1-2.5-1, *et seq.*

11. **Settlement, Effect, Scope, and Approval.** The Parties further acknowledge and agree as follows:

- a. This 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 any party. 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. This stipulation shall not be used as precedent in any other proceeding or for any other purposes, except to the extent necessary to implement or enforce its terms.
- c. The communications and discussions among the Parties, along with the materials produced exchanged during the negotiation of this Settlement, relate to offers of settlement and compromise, and as such, are all 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.

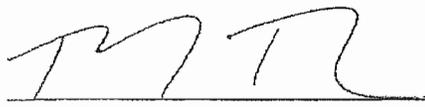
- e. The Parties hereto will either support; or not oppose on rehearing, reconsideration, and/or appeal; an IURC order accepting and approving this Settlement in accordance with its terms.

ACCEPTED THIS 8th DAY OF SEPTEMBER, 2011.

JOINT PETITIONERS

By: 
L. Parvin Price
Bose McKinney & Evans LLP
Its: Counsel of Record

INDIANA OFFICE OF UTILITY
CONSUMER COUNSELOR

By: 
Terry Tolliver
Deputy Consumer Counselor
Its: Counsel of Record