

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

JOINT PETITION OF THE BOARD OF)
DIRECTORS FOR UTILITIES OF THE)
DEPARTMENT OF PUBLIC UTILITIES OF THE)
CITY OF INDIANAPOLIS, D/B/A)
CITIZENS ENERGY GROUP, CWA AUTHORITY,)
INC., THE CITY OF INDIANAPOLIS AND ITS)
DEPARTMENT OF WATERWORKS AND ITS)
SANITARY DISTRICT FOR APPROVALS IN)
CONNECTION WITH THE PROPOSED)
TRANSFER OF CERTAIN WATER UTILITY)
ASSETS TO THE BOARD AND THE PROPOSED)
TRANSFER OF CERTAIN WASTEWATER)
UTILITY ASSETS TO THE AUTHORITY,)
INCLUDING: (A) APPROVAL OF INITIAL RATES)
AND RULE FOR WATER AND WASTEWATER)
SERVICE, AS WELL AS THE TERMS OF)
CERTAIN AGREEMENTS FOR WASTEWATER)
TREATMENT AND DISPOSAL SERVICE; (B))
APPROVAL OF AN ENVIRONMENTAL)
COMPLIANCE PLAN UNDER IND. CODE 8-1-28)
AND AN ADJUSTMENT MECHANISM FOR)
WASTEWATER RATES TO PROVIDE TIMELY)
RECOVERY OF COSTS NECESSARY TO)
COMPLY IN WHOLE OR IN PART WITH THE)
SAFE DRINKING WATER ACT AND/OR CLEAN)
WATER ACT; (C) APPROVAL OF PROPOSED)
ALLOCATIONS OF CORPORATE SUPPORT)
SERVICES COSTS AMONG AFFECTED)
UTILITIES; (D) APPROVAL OF AN OPERATING)
AGREEMENT BETWEEN CITIZENS ENERGY)
GROUP AND CWA AUTHORITY, INC.; (E))
)APPROVAL OF DEPRECIATION RATES AND)
OTHER ACCOUNTING MATTERS RELATED TO)
THE WATER AND WASTEWATER ASSETS; AND)
(F) ANY OTHER APPROVALS NEEDED IN)
CONNECTION THEREWITH)

CAUSE NO. 43936

PREFILED TESTIMONY

VOLUME I

OF

SCOTT A. BELL - PUBLIC'S EXHIBIT #1

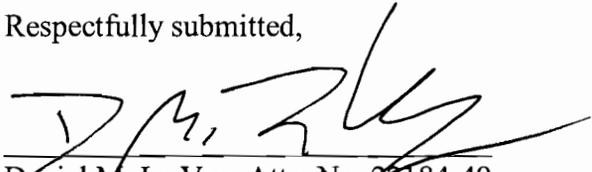
EDWARD R. KAUFMAN - PUBLIC'S EXHIBIT #2

ON BEHALF OF

THE INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

JANUARY 14, 2011

Respectfully submitted,



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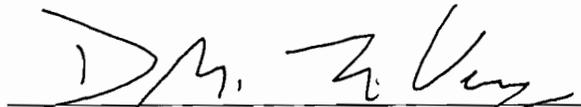
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TESTIMONY OF OUCC WITNESS SCOTT A. BELL
CAUSE NO. 43936
CITIZENS ENERGY GROUP, ET AL.

I. INTRODUCTION

1 **Q: Please state your name and business address.**

2 A: My name is Scott A. Bell, and my business address is 115 West Washington
3 Street, Suite 1500 South, Indianapolis, Indiana 46204.

4 **Q: By whom are you employed and in what capacity?**

5 A: I am employed by the Indiana Office of Utility Consumer Counselor ("OUCC")
6 as the Director of the Water/Wastewater Division.

7 **Q: Please describe your educational background and experience.**

8 A: I graduated from Purdue University with a Bachelor of Science degree in
9 Industrial Management, with a minor in Industrial Engineering. I began working
10 for the Indiana Utility Regulatory Commission ("Commission") in 1988 as a Staff
11 Engineer. In 1990, I was transferred to the OUCC at the time of the
12 reorganization of the Commission and the OUCC. In 1999, I was promoted to the
13 position of Assistant Director and in 2005 I was promoted to the position of
14 Director of the Division. In September 2006, I began a two year appointment as a
15 member of the Water Shortage Task Force, created by SEA 369 in the 2006
16 General Assembly. In December, 2009 I was appointed to a four year term as a
17 member of the Water Resources Task Force, created by HEA 1224 in the 2009
18 General Assembly. I attended numerous utility related seminars and workshops
19 including the Western Utility Rate Seminar sponsored by the National
20 Association of Regulatory Utility Commissioners ("NARUC"). I also completed

1 additional coursework regarding water and wastewater treatment at Indiana
2 University-Purdue University at Indianapolis ("IUPUI").

3 **Q: What is the purpose of your testimony?**

4 **A:** The City of Indianapolis (the "City"), Citizens Energy Group¹ ("CEG" or
5 "Citizens") and CWA Authority, Inc. ("Authority") have asked the Commission
6 for the authority to acquire the City's water and wastewater assets. The City and
7 CEG in particular also seek many other authorizations attendant to these proposed
8 acquisitions in this Cause. The purpose of my testimony is to provide the
9 Commission an overview of the OUCC's position on CEG's proposed acquisition
10 of these assets. To that end, I describe the specific items of authority, approval, or
11 findings identified by the OUCC that Joint Petitioners appear to be requesting in
12 this Cause. (My Attachment SAB-1 identifies the OUCC witnesses that address
13 those items.) Also, my testimony addresses CEG's request for approval of the
14 Environmental Compliance Plan ("ECP"), discusses the City's existing Septic
15 Tank Elimination Program ("STEP"), addresses CEG's request for a finding that
16 it has the managerial ability to own and operate the two utilities, and discusses the
17 City's proposed water conservation plan.

18 **Q: What is the OUCC's overall position in regard to the acquisition of the City's**
19 **water and wastewater assets by CEG?**

20 **A:** Overall, the OUCC does not oppose the acquisition of the City's water and
21 wastewater assets by CEG. However, the OUCC believes that certain conditions

¹ The Verified Joint Petition identifies the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis, as successor trustee of a public charitable trust, to be doing business as Citizens Energy Group. Therefore, when referring to the Board of Directors of the Department of Public Utilities mentioned above, I use the terms Citizens Energy Group, CEG or Citizens.

1 and limitations need to be established before the Commission approves the
2 proposed acquisitions. Each of the OUCC's witnesses will address certain aspects
3 of Joint Petitioners' requests and areas of concern, supporting the OUCC's
4 request for setting these conditions and limitations. These conditions and
5 limitations are recommended by the OUCC to ensure that the transaction is as
6 transparent as possible and that ratepayers receive safe, adequate and reliable
7 water and wastewater services from CEG at a reasonable price going forward. To
8 achieve such goals, it will be extremely important for the Commission to retain
9 oversight over the implementation of these transactions in order to guarantee
10 CEG's accountability to fulfill the requirements set by the Commission as
11 conditions precedent to receiving the Commission's approval of the asset
12 transfers.

13 **Q: Have you previously testified before the Commission?**

14 A: Yes. I have testified in many causes relating to telecommunications, natural gas,
15 electric, water, and wastewater utilities. For over ten years, I have testified
16 exclusively on water and wastewater utility issues. Some of those issues include
17 the reasonableness of cost of service studies, rate design, fair value, Replacement
18 Cost New Less Depreciation ("RCNLD") studies, engineering-related operation
19 and maintenance expenses, capital improvement projects, and water conservation.

20 **Q: Please describe the review and analysis you conducted to prepare your**
21 **testimony.**

22 A: I reviewed the Verified Joint Petition filed on August 11, 2010, Joint Petitioners'
23 testimony filed on August 27, 2010 and Joint Petitioners' supplemental testimony
24 filed on October 29, 2010. I established a case team, which has generally met on

1 a weekly basis throughout the duration of the case. At the Commission's
2 September 13, 2010 Prehearing Conference, I testified as to the complexity of
3 Joint Petitioners' case and the OUCC's need to have sufficient time to conduct its
4 review and prepare its own case. I met with Mr. William Beranek, Jr., from the
5 Indiana Environmental Institute, Inc., to discuss technical aspects of the proposed
6 transition and concerns of the Technical Advisory Group ("TAG"), which he
7 chairs. I participated in the development of nearly 500 discovery questions and
8 the OUCC's processing of Joint Petitioners' responses to those questions. I
9 attended several meetings with Joint Petitioners' counsel and staff to discuss
10 various aspects of this case. I attended the Commission's evidentiary hearing for
11 Joint Petitioners' case-in-chief (conducted on Dec. 6, 7, 8, 10, and 14, 2010.)
12 Along with other OUCC staff and counsel, I attended a meeting with Mr. Thomas
13 Flaherty (Booz & Company), CEG counsel, and representatives from Vantage
14 Energy Consulting, LLC, who were retained by the OUCC to assess the potential
15 savings claimed by Citizens. I attended the Commission's Public Field Hearing
16 on January 5, 2011 and spoke with several members of the public.

17 **Q: Did you or the OUCC meet with CEG or the City before they filed their**
18 **Verified Joint Petition?**

19 **A:** Yes. Along with other members of the OUCC staff, I met with representatives of
20 CEG, who advised of Citizens' intention to acquire the water and wastewater
21 utilities. One meeting took place near the time CEG had responded to the City's
22 Request for Expression of Interest ("REI"), before CEG had entered into the
23 Memorandum of Understanding ("MOU"). The OUCC and CEG representatives
24 met again on May 26, 2010 after CEG and the City had entered into the MOU.

1 **Q: Please identify the other witnesses providing testimony for the OUCC?**

2 **A:** The following individuals are providing testimony on behalf of the OUCC:

- 3 • Edward Kaufman – OUCC Exhibit No. 2
- 4 • Walter Drabinski – OUCC Exhibit No. 3 (Vantage Energy Consulting)
- 5 • Charles Patrick – OUCC Exhibit No. 4
- 6 • Margaret Stull – OUCC Exhibit No. 5
- 7 • Roger Pettijohn – OUCC Exhibit No. 6
- 8 • Harold Rees – OUCC Exhibit No. 7

9 **Q: Please list the Sections of your testimony.**

10 **A:** My testimony is organized into the following sections:

11	I.	Introduction	1
12	II.	Summary of Joint Petitioners' Request for Authority,	
13		Approval or Finding from the Commission	5
14	III.	Environmental Compliance Plan	12
15	IV.	Septic Tank Elimination Program.....	20
16	V.	Management Ability to Own and Operate	
17		the Water and Wastewater Utilities.....	30
18	VI.	Water Conservation Plan	34
19	VII.	Recommendations	39

**II. SUMMARY OF JOINT PETITIONERS' REQUESTS FOR AUTHORITY,
APPROVAL OR FINDING FROM THE COMMISSION**

20 **Q: Please comment upon what the OUCC believes Joint Petitioners are**
21 **requesting in terms of authority, approval or finding from the Commission in**
22 **this proceeding.**

23 **A:** On August 11, 2010, Joint Petitioners filed their Verified Joint Petition, which
24 listed all the Commission authorizations, approvals or findings that Joint
25 Petitioners are requesting in this case. After review of the Joint Petitioners' case-

1 in-chief and responses to OUCC discovery, I list immediately below what specific
2 authorizations or findings Joint Petitioners appear to be seeking. It is worthy to
3 note that the scope or magnitude of these items as set forth in the Joint Petition are
4 far more complex to examine than would otherwise be found in a typical asset
5 transfer proceeding between utilities.

6 **Q. Please state the specific authorizations or findings Joint Petitioners indicate**
7 **they seek in this proceeding.**

8 A: The following specific authorizations are found in the Verified Joint Petition on
9 pages 18-21 and are identified under sections (a) through (t) of the prayer for
10 relief:

A. Water System Asset Purchase Agreement

11 Joint Petitioners have requested the following regarding the Water System Asset
12 Purchase Agreement:

- 13 a) Commission approval of the Water System Asset Purchase Agreement and
14 the transactions contemplated therein;
- 15 b) Commission finding that said agreement and its terms are reasonable and
16 in the public interest; and
- 17 c) Commission authorization for the City, the DOW and CEG to take all
18 actions necessary to effect such agreement.

B. Legal, Financial, Technical and Managerial Ability (Water System)

19 Joint Petitioners have requested a determination that CEG has the legal, financial,
20 technical and managerial ability to own and operate the Water System.

C. Veolia Water Indianapolis, LLC (“Veolia”) Agreement (Water System)

1 Joint Petitioners have requested Commission approval of any agreement reached by
2 the CEG and Veolia as reasonable and in the interest of the customers of the Water
3 System.

D. Utility Rates, Rules and Regulations (Water System)

4 With respect to rates, rules, and regulations of the water utility, Joint Petitioners have
5 requested the following:

- 6 a) Commission approval of the use by CEG of the schedules of rates and
7 charges applicable to the provision of water utility service by the City's
8 Department of Waterworks (“DOW”) in effect at Closing, and
- 9 b) Commission approval of the rules and regulations for service based on those
10 used by the DOW.

E. Assignment of Interlocal Agreements and Franchise Rights (Water System)

11 With respect to Interlocal Agreements and franchise rights, Joint Petitioners have
12 requested the following:

- 13 a) Commission approval of the DOW's assignment of any DOW Interlocal
14 Agreements and franchise rights to CEG, and
- 15 b) Commission approval of CEG's assumption of the DOW's obligations as a
16 result.

F. Depreciation Rates (Water System)

17 Joint Petitioners have requested Commission approval of the adoption by CEG of the
18 DOW's depreciation rates currently used for the Water System.

G. Water System Assets

1 Joint Petitioners have requested Commission approval to record on the books and
2 records of CEG the acquired Water System assets as described in the evidence in this
3 proceeding.

H. Wastewater System Asset Purchase Agreement

4 Joint Petitioners have requested the following regarding the Wastewater System
5 Asset Purchase Agreement:

- 6 a) Commission approval of the Wastewater System Asset Purchase Agreement
7 and the transactions contemplated therein;
- 8 b) Commission finding that said agreement and its terms are reasonable and in
9 the public interest;
- 10 c) Commission finding that the Authority's agreement to make the payments in
11 lieu of taxes ("PILT") in accordance with the schedule agreed upon by the
12 parties and attached to Special Ordinance No. 5, 2010, to be reasonable and in
13 the public interest; and
- 14 d) Commission authorization for the City, the Sanitary District and the Authority
15 to take all actions necessary to effect such agreement.

I. Legal, Financial, Technical and Managerial Ability (Wastewater System)

16 Joint Petitioners have requested a determination that the Authority has the legal,
17 financial, technical, and managerial ability to own and operate the Wastewater
18 System.

J. United Water Service Indiana, LLC ("United") Agreement (Wastewater System)

19 Joint Petitioners have requested approval of any agreement reached by the Authority
20 and United respecting operation of the Wastewater System as reasonable and in the
21 interest of the customers of the Water System.

K. Utility Rates (Wastewater System)

1 Joint Petitioners have requested Commission approval of the use by the Authority of
2 the schedule of rates and charges currently applicable to the provision of wastewater
3 utility service by the City's Sanitary District, as set forth in the City's rate Ordinance,
4 and in effect at closing to be effective for wastewater utility service rendered by the
5 Authority.

L. Rules and Regulations (Wastewater System)

6 Joint Petitioners have requested Commission approval of the terms of certain
7 agreements for wastewater treatment and disposal service and the use by the
8 Authority of general terms and conditions of service based on the rules now in effect
9 for wastewater utility service by the Sanitary District.

M. Depreciation Rates (Wastewater System)

10 Joint Petitioners have requested approval of the adoption by the Authority of the
11 Sanitary District's depreciation rates currently used for the Wastewater System.

N. Assumption of Outstanding Debt (Water System)

12 Joint Petitioners have requested that the Commission find that the CEG's assumption
13 of outstanding indebtedness of the DOW or City related to the Water System or
14 issuance of any new indebtedness related to the CEG's proposed acquisition of the
15 Water System to be reasonable, in the public interest and recoverable in rates.

O. Assumption of Outstanding Debt (Wastewater System)

1 Joint Petitioners have requested that the Commission find that the following debt
2 related issues are reasonable, in the public interest and recoverable in rates:

- 3 a) the Authority's assumption of any existing outstanding indebtedness of the
4 Sanitary District or City related to the Wastewater System,
- 5 b) issuance of any new indebtedness related to the Authority's proposed
6 acquisition of the Wastewater System, and
- 7 c) the Authority's semiannual payments to the City associated with the Sanitary
8 District's general obligations ("GO Debt").

P. Wastewater System Assets

9 Joint Petitioners have requested the Commission authorize "the proper accounting
10 treatment" of the acquired Wastewater System assets on the books and records of the
11 Authority as described in the evidence in this proceeding.

Q. ECP (Wastewater System)

12 With respect to the Authority's ECP, Joint Petitioners have requested the following:

- 13 a) Commission approval of the Authority's ECP,
- 14 b) Commission authorization for the Authority to implement an adjustment
15 mechanism for wastewater rates and charges to provide timely recovery of
16 ECP expenditures necessary for the Authority to comply in whole or in part
17 with the Safe Drinking Water Act and/or Clean Water Act.

R. Operating Agreement to Allocate Corporate Costs (Wastewater System)

18 Joint Petitioners have requested Commission approval of an operating agreement
19 between the CEG and the Authority and a proposed methodology to allocate

1 corporate support services costs among the affected utilities and non-utility affiliates
2 under CEG's control.

S. Certificate of Territorial Authority (Wastewater System)

3 Joint Petitioners have requested Commission approval of a Certificate of Territorial
4 Authority ("CTA") to the Authority for the provision of wastewater utility service to
5 any customers located in rural areas.

T. All Other Relief Necessary or Appropriate

6 Joint Petitioners have requested Commission approval or the granting all other
7 appropriate relief necessary or appropriate. Joint Petitioners have not specifically
8 identified in testimony what "other relief necessary or appropriate" should be
9 authorized by the Commission.

U. Recovery of Additional Debt for "Working Capital"

10 Although not explicitly requested, CEG has indicated in response to OUCC discovery
11 that it intends to issue debt and recover in future rates what it calls "working capital"
12 for both the water and wastewater utilities.

13 **Q: What OUCC witnesses address each of the foregoing requests described**
14 **above?**

15 **A:** Attached to my direct testimony as Attachment SAB-1 is a chart that depicts each of
16 the above items of authorization that are being sought in the Joint Petition; the OUCC
17 witness addressing that aspect of the request; and the location in each OUCC
18 witness's testimony where the request is addressed. This list does not include all the
19 issues that may be addressed by the OUCC.

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III. ENVIRONMENTAL COMPLIANCE PLAN

Q: Have Joint Petitioners requested the Commission approve the Authority's ECP?

A: Yes. In the Verified Joint Petition (See page 20, Subsection (q) of the requested relief), Joint Petitioners have requested that the Commission approve the Authority's ECP.

Q: Have Joint Petitioners provided testimony describing the ECP?

A: Yes. In her testimony, Ms. Ann W. McIver, CEG's Director of Environmental Stewardship, describes key elements of the 2006 Consent Decree, which has been executed by the City of Indianapolis, the United States Environmental Protection Agency ("EPA") and the Indiana Department of Environmental Management ("IDEM"). Ms. McIver also describes the Long Term Control Plan ("LTCP"), which was developed by the City of Indianapolis over a number of years preceding the execution of the Consent Decree. Ms. McIver also sponsors the Authority's "Environmental Compliance Plan."

Q: What is the statutory basis for Commission approval of an ECP?

A: Ind. Code § 8-1-28-5(a) states that "[a] public utility² that is subject to provisions of the Safe Drinking Water Act or Clean Water Act may voluntarily submit an environmental compliance plan that sets forth the manner in which the public utility intends to comply with requirements of the Safe Drinking Water Act or the Clean Water Act to the commission for the commission's review and approval

² A public utility as defined in Ind. Code 8-1-28-3 means "a public utility, a municipally owned utility, or cooperatively owned utility."

1 under this chapter.”

2 **Q: Is the Authority requesting Commission approval of the ECP?**

3 A: Yes. On pages 25-26 of her testimony, Ms. McIver explained the following:

4 ...as contemplated in Ind. Code § 8-1-28-5, the Consent Decree,
5 the LTCP, the First Amendment to the Consent Decree, the non-
6 material modification to Table 7-5, as well as the proposed Second
7 Amendment to the Consent Decree (the First Amendment and
8 proposed Second Amendment are collectively referred to as the
9 “Amendments”) set forth the manner in which CWA Authority
10 intends (and in fact, is required) to comply with the Clean Water
11 Act.

12 Ms. McIver added that accordingly, CWA is submitting to the Commission as its
13 “ECP” the Consent Decree, the LTCP and the Amendments. As mentioned
14 above, Joint Petitioners also requested approval of the Authority’s ECP in their
15 Verified Joint Petition. (See page 20, Subsection (q) of the requested relief.)

16 **Q: Have you reviewed the documents Ms. McIver included in the ECP?**

17 A: Yes. I reviewed the 2006 Consent Decree (included in Schedule 4.16 of the
18 Asset Purchase Agreement for the wastewater utility - Joint Petitioners’ Exhibit
19 CBL-7), the City’s LTCP (Joint Petitioners’ Exhibit AWM-1), the First
20 Amendment to the Consent Decree (Joint Petitioners’ Exhibit AWM-2) and the
21 Second Amendment to the Consent Decree (Joint Petitioners’ Exhibit AWM-4).

22 **Q: Did Ms. McIver explain why the EPA is concerned about Combined Sewer
23 Overflows (“CSO”)?**

24 A: Yes. Ms. McIver explained the nature of CSOs and why the EPA considers them
25 to be a major water pollution concern in hundreds of cities throughout the United
26 States. She described EPA’s CSO Control Policy and the nine-minimum
27 technology-based controls that must be implemented by CSO communities. She
28 also explained that CSO communities were required to develop and implement

1 LTCPs. She stated that “LTCP must assess a range of control options, including
2 costs and benefits, and lead to selection of an alternative for controlling CSOs that
3 would achieve appropriate water quality objectives and compliance with the
4 Clean Water Act.” Ms. McIver added that “once the NPDES [National Pollution
5 Discharge Elimination System] authority and CSO community reached agreement
6 on an LTCP, the CSO community was expected to design and construct the CSO
7 controls as soon as possible.”

8 **Q: Has the City of Indianapolis implemented the nine-minimum technology-**
9 **based controls and developed a LTCP?**

10 A: Ms. McIver testified that the City submitted its final LTCP to IDEM on
11 September 11, 2006. She noted that around the same time the City submitted its
12 ongoing implementation of the nine-minimum technology-based controls
13 mentioned above.

14 **Q: What specifically does the LTCP describe and discuss?**

15 A: On page 1-1, the LTCP (Joint Petitioners' Exhibit AWM-1) states the following:

16 The LTCP describes the control measures the city has chosen for
17 reducing combined sewer overflows (CSOs) and improving water
18 quality in Marion County. The document includes a discussion of
19 regulatory requirements, existing water quality conditions,
20 available control technologies, an evaluation of alternatives, public
21 input on alternatives, a financial capability assessment, the long-
22 term control plan, and a description of the city's compliance
23 monitoring program.

24 The city is proposing a watershed-based plan that will protect and
25 improve upon existing uses of our waterways, help restore
26 beneficial uses and improve the quality of life in many
27 Indianapolis neighborhoods.

28 Although a CSO long-term control plan normally is designed to
29 address only combined sewer overflows, the city has evaluated
30 these other factors as part of a watershed-based strategy for

1 improving water quality. This holistic and progressive approach
2 ensures that the city's investment will achieve the maximum
3 improvements to water quality in the most cost-effective manner.

4 **Q: What are the City's CSO control program goals?**

5 **A:** Page 1-3 of the LTCP includes the following explanation:

6 The city's CSO control program is seeking to restore beneficial
7 uses, protect streams from CSO discharges during periods when
8 people are most likely to use them for recreation, and ultimately
9 result in the city's compliance with its NPDES permits. The
10 program is designed to employ affordable and cost-effective
11 solutions for controlling solids and floatables; capturing "first
12 flush" discharges; and meeting state and federal requirements for
13 dissolved oxygen, bacteria, and other water quality parameters.

14 All control alternatives and strategies have been evaluated based
15 on their ability to help achieve the goals above. However, even if
16 the city immediately eliminated all CSOs, waterways still would
17 not meet the state's current water quality standards for bacteria.
18 Many streams fail to meet standards even during dry weather,
19 when combined sewers do not overflow. Other factors cause water
20 quality problems, such as failed septic systems, upstream pollution,
21 urban stormwater, and sewer infrastructure problems. Therefore,
22 the city envisions a three-pronged approach to improving water
23 quality in Indianapolis: (1) implementing affordable and cost-
24 effective long-term CSO controls; (2) continuing to address
25 structural and maintenance issues; and (3) implementing
26 watershed-based strategies for reducing non-point source pollution,
27 such as streambank restoration, stormwater pollution prevention
28 and converting homes on septic systems to sewer service. These
29 watershed projects will provide tangible water quality and human
30 health benefits.

31 **Q: Does the LTCP specifically address watershed-based strategies for reducing**
32 **non-point source pollution mentioned above?**

33 **A:** Yes. The LTCP (Section 7.3.9 - Systemwide Watershed Improvement Control
34 Measures) states that "in order to maximize the benefits to water quality, stream
35 aesthetics and human health, the city anticipates proceeding with additional non-
36 CSO improvements referred to as 'watershed improvement projects.' See pp. 7-22

1 of the LTCP. The City anticipates implementing the following improvements:

- 2 1. Building interceptors and sewer main extensions to approximately 18,000
3 homes currently served by failing septic systems. The neighborhood
4 projects are prioritized by the STEP Master Plan.
- 5 2. Continuing implementation of real-time control ("RTC") and in-system
6 storage to improve the City's ability to manage flows within the existing
7 sewer system.
- 8 3. Continuing implementation and refinement of the city's industrial
9 pretreatment permitting policy and process, which documents how the
10 Indianapolis Department of Public Works' ("DPW") Office of
11 Environmental Services makes decisions on new or increased discharges
12 by the industrial pretreatment community.
- 13 4. Restoring streambanks and removing polluted sediments from streams.
- 14 5. Flow augmentation and/or aeration in individual streams, as described
15 within each watershed description.

16 The LTCP concludes by stating that "[w]hile these improvements are not directly
17 related to state and federal CSO control requirements, they show the city's
18 willingness to go beyond minimum requirements to improve water quality in
19 neighborhood streams." See pp. 7-22 of the LTCP.

20 **Q: Has the City's LTCP been revised since it was originally submitted in 2006?**

21 **A:** Yes. In response to OUCC Data Request Question 14-2, which asked whether the
22 City had updated the Financial Capability Assessment portion of the 2006 LTCP
23 and submitted it to IDEM for review and/or approval, the City provided the
24 following answer:

25 Yes. The City submitted a revised Financial Capability Assessment
26 (FCA) to IDEM and USEPA on September 17, 2010 (See Attached
27 Exhibit 2 FCA).

28 I have included the City's response to OUCC Data Request Set 14 in its entirety

1 as Attachment SAB-2. The City specific response to Question 14-2 which
2 includes the City's "Exhibit 2 FCA" is included in Attachment SAB-2.

3 **Q: Has the City updated any other portion of the 2006 LTCP?**

4 A: In response to OUCC Data Request Question 14-3 (See Attachment SAB-2),
5 which asked about additional updates to the LTCP, the City provided the
6 following answer:

7 Yes. Internally the City updated the hydraulic modeling and, as a
8 result, refined the sizing of CSO storage and wet weather treatment
9 capacities needed at the Belmont and Southport AWT facilities.
10 An update *per se* of the Long Term Control Plan (LTCP) has not
11 been submitted to IDEM and USEPA, however, the internal
12 information developed has been used for the approval of Consent
13 Decree Amendment No. 1 and pending approval of Consent
14 Decree Amendment No. 2 with USEPA and the US Department of
15 Justice (Note: The City has a written Agreement in Principle with
16 USEPA on the pending approval of Consent Decree Amendment
17 No. 2)

18 **Q: Does Ind. Code 8-1-28 have a Section that describes the Commission's**
19 **criteria for approval of ECPs?**

20 A: Yes. Ind. Code 8-1-28-7 provides the following:

21 Sec. 7 The commission shall issue an order approving an
22 environmental compliance plan if the commission:

23 (1) finds that the environmental compliance plan:

24 (A) is reasonably designed to meet or exceed applicable
25 requirements of the Safe Drinking Water Act or Clean
26 Water Act;

27 (B) constitutes a reasonable and least cost strategy
28 consistent with providing reliable, efficient, and
29 economical water service; and

30 (C) is in the public interest; and

31 (2) approves the cost and schedule estimate for developing and
32 implementing the environmental compliance plan.

1 **Q: Is the ECP reasonably designed to meet or exceed applicable requirements of**
2 **the Safe Drinking Water Act or Clean Water Act as set forth in Ind. Code §**
3 **8-1-28-7(1)(A)?**

4 A: As described by Ms. McIver in her testimony, the United States (through EPA)
5 and the State of Indiana (through IDEM) filed a Complaint against the City of
6 Indianapolis in the District Court of Southern District of Indiana (the "Court") on
7 October 4, 2006. The Complaint alleged that Indianapolis violated and continued
8 to violate the Clean Water Act and Indianapolis' NPDES permits.
9 Contemporaneously with filing the Complaint, the EPA and IDEM entered into
10 the Consent Decree with the City which put in place a plan (the LTCP) for the
11 City to stop violating the Clean Water Act and the City's NPDES permits. On
12 December 19, 2006 the Court approved the Consent Decree. On January 4, 2007,
13 IDEM approved Sections 1 through 8 of the LTCP, pursuant to the Consent
14 Decree. Subsequently, the City has updated the LTCP and amended the Consent
15 Decree to provide a more cost effective and better designed CSO projects. Based
16 on my review of the documents that make up the ECP (the Consent Decree, the
17 LTCP and the First and Second Amendments to the Consent Decree), the ECP
18 appears to be reasonably designed to meet or exceed applicable requirements of
19 the Safe Drinking Water Act or Clean Water Act.

20 **Q: Does the ECP constitute a reasonable and least cost strategy consistent with**
21 **providing reliable, efficient, and economical water service as set forth in Ind.**
22 **Code § 8-1-28-7(1)(B)?**

23 A: As mentioned above, the documents comprising the ECP have been approved by
24 both the EPA and IDEM. Those documents represent a reasonable strategy for
25 the City and potentially the Authority to comply with the Clean Water Act and the

1 wastewater utility's NPDES permits. I also agree that, for purposes of supporting
2 a Commission determination as described in Ind. Code § 8-1-28-7(1)(B), the ECP
3 as presently comprised constitutes a least cost strategy. However, this does not
4 mean that CEG or the Authority have no obligation to seek further efficiencies
5 that can reduce the costs of the ECP, without impairing the effectiveness of the
6 ECP or compliance with EPA and IDEM requirements. For instance, the
7 potential synergies identified by Joint Petitioners' witness Mr. Thomas Flaherty
8 (Booz & Company) may present opportunities that will decrease the cost of the
9 ECP. This would include CEG's consolidation of its design and engineering
10 functions. On pages 37-38 of his testimony, Mr. Flaherty stated that "a
11 consolidated design and engineering function that provides consistent standards,
12 common asset management processes, integrated planning and scheduling, and
13 aligned work execution and close out process will allow capital projects to be
14 performed more efficiently on a combined basis." If the acquisition proposed in
15 this case is approved by the Commission, I recommend that the Authority and
16 CEG continually analyze the currently approved CSO Projects detailed in the
17 LTCP and look for design efficiencies and cost savings as they strive to complete
18 the remaining projects. Also, I recommend that the Authority and CEG strive to
19 attain and document construction costs savings for the remaining CSO Projects.

20 **Q: Is the ECP in the public interest as set forth in Ind. Code § 8-1-28-7(1)(C)?**

21 A: As mentioned above, the City's LTCP states that the City has developed a
22 "watershed-based strategy for improving water quality. This holistic and
23 progressive approach ensures that the city's investment will achieve the maximum

1 improvements to water quality in the most cost-effective manner.” (See page 1-1
2 of the LTCP (Joint Petitioners’ Exhibit AWM-1).) I believe the ECP provides a
3 reasonable approach to improving water quality in the City of Indianapolis and
4 will eventually bring the Sanitary District into compliance with the Clean Water
5 Act and its NPDES Permits. Consequently, I believe that for purposes of the
6 statute, the ECP may be considered to be in the public interest.

7 **Q: Do you recommend Commission approval of the proposed ECP?**

8 A: Yes.

IV. SEPTIC TANK ELIMINATION PROGRAM (“STEP”)

9 **Q: Has the City of Indianapolis initiated a STEP?**

10 A: Yes. On page 2 of Exhibit 5 of the Consent Decree (contained in Joint
11 Petitioners’ Exhibit CBL-7), the following description of the STEP is provided:

12 Approximately 30,000 homes in Marion County are served by
13 private septic systems, with 18,000 of those homes being classified
14 as high priority to receive sewer systems because their septic
15 systems are failing or near failure. Septic systems have a limited
16 life and eventually fail, leaching human waste into groundwater,
17 backyards, and/or ditches and streams. Septic systems at times can
18 be linked to high E. coli bacteria counts in many small
19 neighborhood streams and ditches during dry weather, when
20 children are most likely to play in them.

21 In the past, the City has used the State of Indiana’s Barrett Law
22 process to require homeowners to share the cost to construct
23 sewers in neighborhoods on septic systems. This has caused
24 hardships for many homeowners, especially low-income residents
25 and the elderly on fixed incomes. Projects often faced public
26 opposition and progress on septic tank conversion projects has
27 slowed as a result. To address the pollution caused by failing
28 septic systems more effectively and quickly, the City of
29 Indianapolis and Marion County City-County Council (Council)
30 initiated the Septic Tank Elimination Program (STEP) to eliminate

1 the need to use the Barrett Law as the financing mechanism for
2 septic tank conversion projects. **Funding for the public**
3 **infrastructure portions of STEP projects will be provided by**
4 **sanitary sewer rates.** Individual property owners will be
5 responsible for costs associated with their private lateral,
6 connection fee to the city sewer and septic tank closure. Each
7 STEP project will be implemented through the City Capital
8 Improvement Plan, beginning with facility planning, engineering
9 design, public bidding for a construction contractor and project
10 construction. The city actively works with neighborhood
11 associations and conducts public meetings for each STEP project
12 to ensure that the affected public are fully informed and can
13 participate in the project. Public information meetings will be
14 conducted at each of the stages listed above, and a continued
15 public communication process will be maintained during
16 construction.

17 (emphasis added.)

18 **Q: Has the City prioritized the STEP projects that still need to be completed?**

19 A: Yes. The LTCP states that the STEP projects have been prioritized and also
20 identifies the criteria that were used to prioritize the STEP projects. The
21 following statement is located on page 4-9 of the LTCP:

22 The city has prioritized 161 unsewered areas for conversion to
23 sewers. The master plan ranks each area based on the following
24 criteria: septic failure rate, stream bacteriological impairment,
25 wellfield protection, presence of residential wells, proximity to
26 greenways, petitions from residents or Marion County Health &
27 Hospital Corp., number of residents in favor of the project, cost,
28 downstream capacity, correlation to drainage projects, and areas
29 tributary to combined sewer overflows. The project priority list is
30 included in **Appendix C**. The project priority list is periodically
31 reviewed and projects are re-prioritized based on changes in
32 conditions or the need to coordinate the installation of a new sewer
33 system in a neighborhood with other street or utility work that
34 occurs.

35 Appendix C (Septic Tank Elimination Program Prioritization Criteria and Matrix)

36 mentioned above is included in the City's LTCP (See Joint Petitioner's Exhibit

37 AWM-1.)

1 **Q: Has the City committed to using the STEP to extend sanitary sewers and**
2 **eliminate failing septic systems in Marion County?**

3 A: Yes. As an example, I have included, as Attachment SAB-3, a DPW press release
4 dated January 8, 2010 which describes the City's use of the STEP to construct
5 sanitary sewers and eliminate septic systems for 1,100 residents. The press
6 release goes on to state the following:

7 In 2009, under the direction of Mayor Ballard, DPW re-prioritized
8 planned sewer projects and pushed the schedule forward to
9 eliminate more septic systems than any other time in the city's
10 history.

11 STEP Projects are funded through sanitary sewer fees. In addition,
12 homeowners pay a one-time connection fee for the construction of
13 city sewers and monthly sewer charges.

14 Septic systems are linked to high *E. coli* bacteria counts in many
15 neighborhood streams and ditches during dry weather, when
16 children are most likely to play in them. Some septic tank owners
17 get their drinking water from private wells, which can be
18 vulnerable to contamination by *E. coli* bacteria.

19 In 2010, the city plans to complete six projects and convert close to
20 1,200 homes from septic systems to the city's sanitary sewer
21 system. In addition, six projects will be in construction in 2010,
22 which will result in the elimination of an additional 1,800 septic
23 systems in 2011.

24 The STEP program is part of the city's Clean Streams-Healthy
25 Neighborhoods program, which is designed to curb raw sewage
26 overflows into rivers and streams, addressing chronic flooding,
27 eliminate failing septic tanks and improve quality of life in
28 Indianapolis neighborhoods.

29 **Q: Did Mr. Dillard address the STEP projects in his testimony?**

30 A: Yes. Mr. Dillard described the STEP on pages 9 and 10 of his testimony. Mr.
31 Dillard stated that there are an estimated 25,000 homes in Marion County
32 currently served by private septic systems. Mr. Dillard added that 18,000 septic

1 systems “have been identified as failing or posing health risks.” (See Joint
2 Petitioners’ Exhibit JOD, p. 9-10.) He also noted that the City committed to
3 bring sanitary sewer service to approximately 7,000 more homes between 2009
4 and 2015 and that through the end of 2010, “approximately 2,300 of the 7,000
5 homes should be transferred to the Wastewater System.” (See Joint Petitioners’
6 Exhibit JOD, p. 10.)

7 **Q: Has the Authority agreed to finance, construct, implement and complete**
8 **some STEP projects?**

9 A: Yes. On page 10 of his testimony, Mr. Dillard stated that “[u]nder Section
10 2.04(d) of the Asset Purchase Agreement, the Authority is obligated to finance
11 construct, implement and complete the high priority STEP projects that the City
12 committed to implement.” Those high priority STEP projects have been
13 specifically identified in Schedule 2.04(d) of the wastewater system Asset
14 Purchase Agreement included in Joint Petitioners’ Exhibit CBL-7.

15 **Q: What is the cost associated with completing the STEP projects identified in**
16 **Schedule 2.04(d) of the wastewater system Asset Purchase Agreement?**

17 A: In response to OUCC Data Request Q 14-1, sub-parts (a) through (f), the City
18 indicated that the cost to complete all the STEP Projects listed in Schedule 2.04(d)
19 is \$132,127,863. In its response to the Data Request, the City also provided
20 information regarding the cost associated with completing each specific STEP
21 project, the estimated date of completion, and the number of septic tanks
22 eliminated by each project. That response indicates that 7,439 septic tanks will be
23 eliminated after all 37 STEP projects are completed. (See Attachment SAB-2)

1 **Q: What is the estimated number of septic tanks that will not be eliminated by**
2 **the completion of all STEP projects listed in Schedule 2.04(d)?**

3 A: In response to OUCC Data Request Question 14-1(e) (See Attachment SAB-2),
4 the City responded with the following:

5 The estimated number of failing septic tanks that will not be
6 eliminated by completion of all STEP Projects listed in Schedule
7 2.04(d) is as follows: As of last count there are a total of 19,666
8 properties served by septic systems remaining beyond the above
9 referenced septic systems from Schedule 2.04(d) within the
10 Indianapolis Sanitary District. Not all septic systems are in failure
11 mode, however, based upon analysis DPW has rated the remaining
12 septic properties as follows: High Priority (known/recorded
13 incidences of failing septic) 7,576; Medium Priority (Little
14 evidence of failing systems but still served by septic) 7,045 and
15 Low Priority (no evidence of failing septic systems) 5,045. (See
16 attached Exhibit 1 Answer 14-1e)

17 **Q: What is the estimated cost of eliminating the remaining 19,666 septic systems**
18 **mentioned above?**

19 A: In response to OUCC Data Request Question 14-1(e) (See Attachment SAB-2),
20 the City indicated the cost to eliminate the remaining 19,666 septic tanks would
21 be \$578,991,100.

22 **Q: What entity would be responsible for the cost of eliminating the remaining**
23 **19,666 septic systems?**

24 A: It is not clear what entity and to what extent that entity would be responsible for
25 eliminating the remaining 19,666 septic tanks. In response to OUCC Data
26 Request Q14-1(g) (See Attachment SAB-2), which asked what entity would be
27 responsible for the cost of eliminating the remaining 19,666 septic systems, CEG
28 and the Authority stated the following:

1 To the extent septic systems are not eliminated by the completion
2 of the STEP Projects listed in Schedule 2.04(d), if additional STEP
3 projects are deemed necessary considered within the context of the
4 system's many clean water infrastructure needs to meet the
5 requirements of the Consent Decree and the Long Term Control
6 Plan and these septic systems are included in any such
7 determination, CWA Authority will be responsible for completing
8 those projects per the Asset Purchase Agreement.

9 (emphasis added.)

10 However, in response to OUCC Data Request Q15-2(c) (See Attachment SAB-4),
11 which asks what entity will be responsible for paying for the Septic Tank
12 Elimination Program costs identified in Table 6-1 of the LTCP, CEG and the
13 Authority stated the following:

14 If the wastewater utility Asset Purchase Agreement is approved by
15 the IURC, CWA Authority will be responsible for paying for any
16 costs associated with the Septic Tank Elimination Program.

17 Although the answers to these two OUCC data request questions seem to indicate
18 that CEG and the Authority will be responsible for any costs associated with the
19 STEP if the acquisition is approved, the response to OUCC Data Request Q14-
20 1(g) contains a qualifying statement that indicates that the Authority will be
21 responsible only "...if additional STEP projects are deemed necessary." This
22 qualifying statement concerns me because it appears that CEG or the Authority is
23 indicating that they will complete the STEP projects only if they deem it
24 necessary.

25 **Q: Are there any other indications as to whether CEG or the Authority intends**
26 **to complete the STEP projects not already agreed to in the wastewater**
27 **system Asset Purchase Agreement?**

28 A: Yes. In response to OUCC cross-examination, Mr. Carey Lykins made the
29 following statement:

1 My understanding is that while the 7,000 or so systems are not
2 mandated for connection to the wastewater system by EPA or
3 IDEM, I understand that they are failed systems that have created
4 significant environmental problems in some Indianapolis
5 neighborhoods creating situations in which the water table may be
6 contaminated, water supply may be impaired, by these failed
7 systems, and also raw effluent is getting into neighborhood streams
8 and rivers where people hope to recreate, and so I believe it's
9 sound public policy. One doesn't necessarily always wait for a
10 mandate from EPA to undertake appropriate environmental action.

11 In response to additional cross-examination, Mr. Lykins made the following
12 statement:

13 Our commitment is to complete the so-called STEP initiative on
14 the 7,000 or so failed septic systems, get mains extended into those
15 neighborhoods and get them connected to the wastewater system.

16 As you indicated in one of your earlier questions, that would still
17 leave some -- I forget what you said that Mr. Cotterill said --
18 20,000 or something other troubled systems elsewhere in the
19 county. It's not yet time to decide whether or not we would come
20 to the IURC and suggest that those homes be connected to the
21 wastewater system as well. That will be subject to a later cost-
22 benefit sort of analysis, and if it is appropriate, we'd bring that
23 proposal to the Commission at that time.

24 **Q: Does Mr. Dillard discuss the Authority's or CEG's intension of completing**
25 **STEP projects not already agreed to in the wastewater system Asset**
26 **Purchase Agreement?**

27 A: Yes. On pages 10 and 11 of his testimony, Mr. Dillard stated the Authority will
28 not limit itself to just the STEP projects listed in the Asset Purchase Agreement.

29 Mr. Dillard added the following:

30 Upon completion of the STEP projects identified in the Asset
31 Purchase Agreement, Citizens Energy Group will consider
32 completion of additional STEP projects through a cost benefit
33 analysis process that will encompass a variety of factors, including
34 both the tangible and intangible costs associated with the STEP
35 projects, their environmental impact, overall community benefit
36 and available funds.

1 **Q: Do you consider CEG's commitment to consider additional STEP projects as**
2 **described above to be sufficient?**

3 A: I appreciate CEG's and the Authority's willingness to "consider" the completion
4 of additional STEP projects, however, the City has committed to systematically
5 eliminate failing septic systems in Marion County. Yet, Mr. Dillard's comments
6 above and CEG's answer to the OUCC Data Request Q 14-1(g) suggest
7 something less of a commitment than what the City made. Since CEG and/or the
8 Authority propose to acquire the City's wastewater assets, I believe it is necessary
9 and prudent for the Commission to require CEG to make this same commitment
10 in regard to constructing sanitary sewers necessary to eliminate other failing
11 septic systems in Marion County.

12 **Q: How does the City currently pay for STEP projects?**

13 A: According to Exhibits 4 and 5 of the Consent Decree, when the City-County
14 Council initiated the STEP program, it eliminated the need to use the Barrett Law
15 as the financing mechanism for septic tank conversion projects. It did this
16 because use of the Barrett Law had caused financial hardships for many
17 homeowners, especially low-income residents and the elderly on fixed incomes,
18 when it was used to fund septic tank conversion projects. Exhibits 4 and 5 of the
19 Consent Decree also state that "funding for the public infrastructure portions of
20 STEP will be provided through sanitary sewer rates." Currently, the Sanitary
21 District charges a monthly volumetric rate based on water usage and also charges
22 all new sewer utility customers connecting to the sewer collection system a
23 "connection fee" of \$2,500.

1 **Q: If funding for the public infrastructure portion of STEP projects are**
2 **currently provided through sanitary sewer rates and connection fees, what**
3 **entity should be financially responsible for the costs of completing the**
4 **remaining STEP projects?**

5 A: If the acquisition of the wastewater utility is approved and the Authority begins
6 charging the previously-approved sanitary sewer rates and connection fee, the
7 Authority should be responsible for completing the remaining STEP projects not
8 specifically identified in Schedule 2.04(d) of the wastewater system Asset
9 Purchase Agreement.

10 **Q: Do you have any recommendations regarding the responsibility of**
11 **completing the remaining STEP projects?**

12 A: Yes. Since the Authority proposes to acquire the City's wastewater system assets,
13 along with the fact that funding for the public infrastructure portion of the STEP
14 is already provided through sanitary sewer rates, I believe it is necessary and
15 prudent for the Commission to require the Authority to make this same
16 commitment in regard to constructing sanitary sewers necessary to eliminate other
17 failing septic systems in Marion County. Therefore, I recommend that the
18 Commission order the Authority to be financially responsible for completing all
19 the STEP projects in addition to the STEP projects the Authority has already
20 agreed to complete, which are identified in Schedule 2.04(d) of the wastewater
21 system Asset Purchase Agreement. The Authority should use the STEP
22 Prioritization Criteria and Matrix included in Appendix C of the LTCP and any
23 updated versions of that document to prioritize and completion the STEP projects
24 in a timely and cost effective manner.

25 **Q: Does the City of Indianapolis offer a STEP Financial Assistance Plan?**

26 A: Yes. The City developed the STEP Financial Assistance Plan to help lower

1 income residents in STEP Project areas pay the sewer connection fee of \$2,500
2 over time. Marion County residents in a STEP Project area qualify for the STEP
3 Financial Assistance Plan if their annual household gross income is at or below
4 \$45,553. The Financial Assistance Plan is not a loan. It is an installment plan
5 that allows qualified residents to pay \$49 per month, including administrative
6 fees, over 60 months (5 years).

7 **Q: Will the Authority continue to offer the STEP Financial Assistance Plan for**
8 **those residents that qualify?**

9 A: I am not aware of any testimony addressing whether CEG or the Authority will
10 continue to provide the STEP Financial Assistance Plan. However, I believe the
11 Assistance Plan is necessary and therefore, I recommend that the Authority
12 continue to offer the STEP Financial Assistance Plan for those residents that
13 qualify.

14 **Q: If a resident is connected to the City's sanitary sewer as a result of a STEP**
15 **Project, what costs will the resident be responsible for in addition to the**
16 **\$2,500 connection fee?**

17 A: It is my understanding that the resident would be responsible for 1) paying the
18 cost of hiring a licensed contractor to connect a home to the new sewer main and
19 2) abandoning the existing septic tank.

20 **Q: Does the City of Indianapolis website (www.indy.gov) provide information**
21 **about the STEP Projects, including frequently asked questions ("FAQs"),**
22 **homeowner costs associated with connecting to the sewer and the STEP**
23 **Financial Assistance Plan?**

24 A: Yes. If the proposed acquisition is approved, I recommend that CEG and the
25 Authority provide detailed information about the STEP Projects on the CEG
26 website so that consumers are well informed.

1 **V. MANAGERIAL ABILITY TO OWN AND OPERATE**
2 **THE WATER AND WASTEWATER UTILITIES**

3 **Q: Have Joint Petitioners requested a determination by the Commission that**
4 **CEG has the managerial ability to own and operate the water and**
5 **wastewater systems?**

6 **A:** Yes. In the Verified Joint Petition (See page 20, Subsection (b) and Subsection (i)
7 of the requested relief), the Joint Petitioners have requested a determination that
8 CEG has the managerial ability to own and operate the Water and Wastewater
9 System. (See Joint Petition, page 20, subsections (b) and (i).)

10 **Q: Does CEG and the Authority discuss its operational and managerial ability**
11 **in testimony?**

12 **A:** Yes. Mr. William A. Tracy, Senior Vice President of Operations, discusses
13 CEG's and the Authority's operational and managerial ability to own and operate
14 the water and wastewater utilities. He explained that the senior management team
15 has over 150 years of utility management experience and that they currently
16 manage 750 Indianapolis-based employees. He provided a description of CEG's
17 existing operations and its operational performance. He also explained his
18 familiarity with the City's water and wastewater utilities.

19 **Q: What process has CEG initiated to provide for the safe, thoughtful and**
20 **organized transition of the wastewater and water utilities to CEG and the**
21 **Authority?**

22 **A:** On pages 5-6 of his supplemental testimony, Mr. Tracy explained the transition
23 plan that CEG will implement to ensure "day 1" readiness when CEG closes on
24 the proposed acquisition. Several CEG witnesses indicated during cross-
25 examination that the transition plan, which is broken into five primary phases, had
26 been initiated and that the transition teams were somewhere in Phase 2 - Analysis
27 or Phase 3 - Design phases. Therefore, the transition team would still need to

1 complete Phase 4 – Implementation Planning and Phase 5 – Implementation
2 Execution.

3 **Q: Has Mr. Tracy explained what resources CEG will retain to assist in the**
4 **management of the water and wastewater utilities?**

5 Q: Yes. Mr. Tracy has indicated that the City will assign its management agreement
6 with United to the Authority and that the Authority will hire 34 current DPW
7 employees. He also indicated that with the termination of the City's management
8 agreement with Veolia, CEG will hire many of the Veolia employees and four (4)
9 DOW employees in order to retain the operational and managerial experience. He
10 also explains that CEG has retained Malcolm Pirnie and a retired Indianapolis
11 Water executive to participate in the transition team.

12 **Q: What is your opinion of CEG's and the Authority's managerial ability to**
13 **own and operate the water and wastewater utilities?**

14 A: It is evident that Mr. Tracy, as well as the other senior level management have
15 extensive experience managing CEG's current assets and businesses. It appears
16 that CEG and the Authority will hire the vast majority of the employees of DPW,
17 DOW and Veolia who will provide the day-to-day operations of the two utilities.
18 The Authority will also assume the United management agreement. It also
19 appears that CEG has created transition teams to provide for the safe, thoughtful
20 and organized transition of the two utilities to CEG and the Authority. Therefore,
21 it appears that CEG and the Authority will be well equipped to manage the two
22 utilities. However, this result depends on certain actions CEG and the Authority
23 should be required to make.

24 **Q: Please explain your recommendations.**

25 A: The acquisition of the two utilities will add over 600,000 customers under the

1 current management. But CEG did not indicate in its testimony that it would hire
2 any additional employees to assist in the management of the two utilities, other
3 than those that will be acquired from Veolia, DOW and DPW. It appears that, in
4 addition to their current responsibilities, CEG's existing management team will
5 assume all the additional responsibility of managing the two utilities. To avoid
6 being overwhelmed by the additional managerial responsibilities, CEG should
7 carefully and thoughtfully assess what other management personnel it needs to
8 properly manage the acquired assets.

9 Second, the Advanced Wastewater Treatment ("AWT") Technical
10 Advisory Panel and the Technical Advisory Group ("TAG") are valuable
11 resources for the City's management of its wastewater and water utilities,
12 respectively. The AWT Technical Advisory Panel was established to provide
13 independent technical advice to the City's DPW management as technical policy
14 decisions were made for the wastewater utility. The TAG meets monthly with
15 City and Veolia management to discuss technical issues related to the City's water
16 utility. CEG and the Authority should provide stronger assurances that both
17 entities will promote the continued existence and utilization of the AWT
18 Technical Advisory Panel and the TAG as a valuable management asset.

19 Third, if the acquisition is completed, the general public's ability to
20 provide public policy input to CEG management will be limited. The public
21 needs to have a forum to allow its input before significant decisions are made.
22 CEG should propose a meaningful process for direct public access to its decision
23 makers.

1 Fourth, through its order, the Commission should encourage and direct
2 CEG and the Authority to adopt the current practice of working with the local
3 environmental groups or other partners (e.g. the Upper White River Watershed
4 Alliance, the Eagle Creek Watershed Alliance, the Eagle Creek Park Foundation
5 Citizens Advisory Committee, the Geist Watershed Alliance, and the Central
6 Indiana Water Resources Partnership with IUPUI's Center for Earth and
7 Environmental Sciences ("CEES")) to protect source water resources and streams
8 and rivers. Included as Attachment SAB-5, is a December 26, 2010 letter from the
9 Eagle Creek Park Foundation Citizens Advisory Committee to Mr. Lykins. In the
10 letter, the Advisory Committee's Chair, John Pankhurst describes the current
11 relationship with Veolia as follows:

12 The Committee had been especially appreciative of Veolia's
13 constructive, cooperative and proactive efforts to try and deal with
14 watershed pollution problems and blue-green algae blooms in the
15 reservoir. Although problems remain, much progress has been
16 made, and Veolia's support in terms of expertise, money, and in-
17 kind services has, from our perspective, been invaluable.

18 Nevertheless, we would like assurances that the environmentally
19 responsible and constructive attitude displayed by the City and
20 especially Veolia Water will continue after Citizens assumes
21 responsibility for the City's water supply, and that ongoing efforts
22 and research in the watershed will be adequately supported. A
23 clean and healthy watershed benefits all stakeholders.

24 Mr. Pankhurst comments display the concerns organizations such as his have in
25 protecting the environment in which we all live and enjoy. It is imperative that
26 Citizens continue the ongoing support for such local organizations.

1

VI. WATER CONSERVATION PLAN

2 **Q: During your involvement in the DOW's last two rate cases, Cause Nos. 43056**
3 **and 43645, has water conservation and the efficient use of water been an**
4 **issue of discussion?**

5 A: Yes. In both cases, I provided written and oral testimony regarding water
6 conservation measures.

7 **Q: Please explain the Commission's finding in Cause No. 43056 as it relates to**
8 **City's water conservation measures.**

9 A: In its April 4, 2007 Final Order, the Commission approved a Settlement
10 Agreement between the DOW, the OUCC, the Industrial Group, and the Town of
11 Pittsboro. The Settlement Agreement addressed water conservation in Section 5
12 as follows:

13 5. Water Conservation Measures. The Department will, as soon as
14 possible and in any event before the commencement of its next
15 general rate case, undertake the water conservation measures
16 recommended by OUCC witness Scott Bell in the OUCC's case-
17 in-chief, consisting of the following. First, the Department will
18 determine which of the thirty-three (33) potential conservation
19 measures outlined in the 2004 Water Conservation Plan that was
20 prepared for the Department by Veolia Water Indianapolis, LLC,
21 are cost-effective and should be implemented. Second, the
22 Department will update the 2004 Water Conservation Plan to
23 determine specific conservation planning goals, to modify the
24 Department's demand, supply, and capacity forecasts to reflect the
25 anticipated effects of conservation, and to establish a strategy and
26 timetable for implementing specific conservation measures.

27 **Q: Did the DOW provide a witness that addressed water conservation in Cause**
28 **No. 43645?**

29 A: Yes. The DOW provided the testimony of Mr. Dan Moran, Senior Water Process
30 Engineer, Veolia Water North America Operating Services. Attached to Mr.
31 Moran's testimony was Exhibit DM-1, which is the 2009 Water Conservation
32 Plan Update ("Conservation Plan"). The general objective of the Conservation

1 Plan is to “identify actions and programs to increase supply utilization and/or
2 minimize demand, particularly as these relate to periods of most significant
3 system stress.” (See Cause No. 43645, Exhibit DM-1, p. 10.) It further stated this
4 “Water Conservation Plan Update is prepared to define the needs for conservation
5 planning, identify and prioritize potential conservation measures and recommend
6 strategies for continued conservation activities.” *Id.*

7 **Q: Did the DOW comply with the terms of the Settlement Agreement in Cause**
8 **No. 43056 by determining which of the thirty-three potential conservation**
9 **measures are “cost-effective and should be implemented”?**

10 A: Yes. The 2009 Conservation Plan describes the thirty-three (33) conservation
11 measures originally identified in the 2004 Conservation Plan. In addition, the
12 Conservation Plan describes five (5) additional conservation measures for
13 consideration. As required in the Commission-approved Settlement Agreement,
14 the DOW analyzed the original thirty three (33) and the additional five (5)
15 conservation measures to determine the benefit and costs associated with
16 implementing each measure. Mr. Moran used the Cost-Benefit Analysis
17 Methodology outlined in the American Water Works Association (“AWWA”)
18 Manual M52, Water Conservation Programs – A Planning Manual to determine
19 whether the present value “benefit” was greater than the present value “cost” for
20 each measure. The detailed calculations used for the Cost-Benefit Analyses were
21 provided as Appendix B, Exhibit DM-1, and a summary of the results of the
22 calculations was included as Table 5-1. (See Cause No. 43645, Exhibit DM-1, at
23 p. 83.) Based on the analyses performed, a summary of the specific
24 recommendations and additional funding requirements were provided in Table 7-

1 1 and an Implementation Schedule was included as Figure 7-1. (See Cause No.
2 43645, Exhibit DM-1, pp. 88-89.)

3 **Q: Does the Conservation Plan identify goals as required in the Commission-**
4 **approved Settlement Agreement?**

5 A: Yes. In Section 8, pages 93-95, the Conservation Plan explains that “goals have
6 been developed based on a combination of system needs and on expected water
7 savings that can reasonably be achieved through the recommended water
8 conservation measures.” The Conservation Plan explains implementation of
9 conservation measures are “expected to have a greater impact on maximum-day
10 demand than on average-day demand.” The Plan also anticipates the
11 recommended measures will “delay and reduce capital expenditures required for
12 system capacity increases while limiting the overall impact on utility revenues.”

13 The Conservation Plan includes Table 8-1, which “provides a summary of
14 expected demand forecasts if all the recommended measures are implemented.”
15 The Conservation Plan estimates the potential to reduce the peak day demand by
16 13.4 million gallons per day (“mgd”) by year 2010, reduce peak day demand by
17 17.5 mgd by year 2015, and reduce peak day demand by 21.6 mgd by year 2020.

18 **Q: What conservation measure provides the most significant impact?**

19 A: Table 8-1 indicates the conservation measure with most significant impact is No.
20 27, Triggered Non-Essential Use Ordinance. This conservation measure, as
21 indicated on page 60, is already in place. It provides the following description of
22 the ordinance:

23 The Indianapolis City-County Council approved an ordinance in
24 February 2009 that gives the Mayor the authority to declare a
25 water warning based on declining reservoir supplies that would

1 ban lawn irrigation, washing cars in driveways, and filling
2 swimming pools. If reservoirs continue to decline, the Mayor
3 could declare a water emergency that would ban any outdoor water
4 use with an exception to vegetable gardens. The ordinance
5 provides authority to fine violators from \$100 to \$2,500.

6 According to Table 8-1 of the Conservation Plan, this measure is
7 estimated to reduce the peak day demand by 12.9 mgd by year 2010, to reduce the
8 peak day demand by 13.3 mgd by year 2015, and to reduce the peak day demand
9 by 13.6 mgd by year 2020. This one conservation measure accounts for the vast
10 majority of the peak day water use reductions.

11 **Q: Does the Conservation Plan identify any additional concerns?**

12 **A:** Yes. Based on the evaluation of the sustainable water supplies, system capacity
13 and system demands, the Conservation Plan indicates water supply yields are
14 capable of meeting average day demand growth. However, this evaluation also
15 identified three primary concerns on page 84. They are as follows:

- 16 • Current system treatment and delivery capacity is insufficient to satisfy
17 maximum day demands forecasted for year 2010 and beyond.
- 18 • System sustainable supply yields are insufficient to satisfy maximum day
19 demands under drought conditions equivalent to the 1988 drought.
- 20 • System sustainability supply yields are insufficient to satisfy either
21 maximum day or average day demands under drought conditions
22 equivalent to the 1940-1941 drought.

23 Based on this information, the Conservation Plan recommends that
24 “Indianapolis Water should consider development of a systematic plan to ensure
25 timely and effective response to drought conditions.”

26 **Q: Did the OUCC make any recommendations in Cause No. 43645?**

27 **A:** Yes. The OUCC recommended that the DOW and Veolia work together to

1 implement the Conservation Plan as described in Mr. Moran's testimony and
2 develop a "systematic plan" to respond to drought conditions.

3 **Q: Has CEG addressed the City's and Veolia's 2009 Conservation Plan in**
4 **testimony?**

5 A: Yes. In Mr. William A. Tracy's testimony, page 20, he indicates that "water
6 conservation planning is an important initiative that Citizens Energy Group will
7 support going forward." He concludes by stating that "Citizens Energy Group
8 plans to review the impact of various conservation measures and continue to make
9 improvements as data and information becomes available."

10 **Q: If the proposed acquisition of the City's water utility assets is approved,**
11 **should CEG use the Veolia 2009 Conservation Plan?**

12 A: Yes. I believe Veolia invested significant resources into developing a
13 comprehensive Conservation Plan as directed by the Commission in Cause No.
14 43056. The Conservation Plan identified cost effective water conservation
15 measures. At this time, the Commission has yet to issue a Final Order in Cause
16 No. 43645. Therefore, the OUCC does not know the outcome of its
17 recommendations concerning water conservation in that case. However, I
18 recommend that CEG either (1) adopt the 2009 Veolia Conservation Plan or (2)
19 use the 2009 Veolia Conservation Plan to develop its own Conservation Plan to
20 be presented to the Commission for approval. In addition, CEG should
21 development a systematic plan to ensure timely and effective response to drought
22 conditions.

VII. OUCC RECOMMENDATIONS

1 **Q: Please summarize your recommendations to the Commission in this cause.**

2 A: I recommend that --

3 • The Commission approve CEG's proposed ECP as contemplated in Ind.
4 Code § 8-1-28-5.

5 • The Commission order the Authority and CEG to continually analyze the
6 currently approved CSO Projects detailed in the LTCP and look for and
7 implement design efficiencies and cost savings as they strive to complete
8 the remaining Projects.

9 • The Commission order the Authority and CEG to document any
10 construction costs savings for the remaining CSO Projects.

11 • The Commission order the Authority to be financially responsible for
12 completing all the STEP projects in addition to the STEP projects the
13 Authority has already agreed to complete, which are identified in Schedule
14 2.04(d) of the wastewater system Asset Purchase Agreement.

15 • The Commission order CEG and the Authority to provide information
16 about the STEP Projects on the Citizens website so that consumers are
17 well informed about the STEP Projects.

18 • The Commission find that CEG has the managerial ability to own and
19 operate the water and wastewater utilities.

20 • The Commission require CEG and the Authority to continue the DOW's
21 and the Sanitary District's practice of actively participating in the AWT
22 Technical Advisory Panel and the TAG meetings and treating these
23 groups as a valuable management asset.

24 • The Commission order CEG and the Authority to create a forum to allow
25 public input on significant utility decisions.

26 • The Commission order CEG and the Authority to adopt the current
27 practice of working with the local environmental groups or other partners
28 to protect source water resources and streams and rivers.

29 • The Commission order CEG to either (1) adopt the 2009 Veolia
30 Conservation Plan or (2) use the 2009 Veolia Conservation Plan to
31 develop its own Conservation Plan to be presented to the Commission for
32 approval.

1 • The Commission order CEG to develop a systematic plan to ensure timely
2 and effective response to drought conditions.

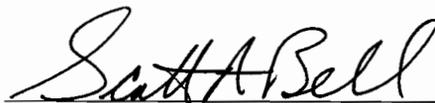
3 • The Commission establish a reporting mechanism for tracking compliance
4 with the foregoing recommendations.

5 **Q: Does this conclude your testimony?**

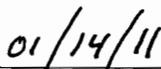
6 **A:** Yes. However, the Commission may issue an order in Cause No. 43645 before
7 the final hearing in this case. The Commission's decisions in that case may
8 influence some of my recommendations in this case. Should an order in that case
9 be issued prior to the final hearing in this case, some of my recommendations may
10 need to be revised.

AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.



By: Scott A. Bell
Indiana Office of
Utility Consumer Counselor



Date

Cause No. 43936

Requested Relief:	OUCC Witness	Location of Witness Discussion
A. Approval of the Water System Asset Purchase Agreement	Kaufman	Sections VII, p. 17 and XI, p. 38
B. Legal, Financial, Technical and Managerial Ability (Water System)	Kaufman	Section III p. 10 (Financial Ability)
	Rees	Section II, p. 4 (Tech. Ability)
	Bell	Section V, p. 30 (Mgmt Ability)
C. Veolia Water Indianapolis, LLC Agreement (Water System)	Kaufman	Section IV, p. 12
D. Utility Rates, Rules and Regulations (Water System)	Stull	Section IV, p. 21 and V, p. 41
	Rees	Section III, p. 16
E. Assignment of Interlocal Agreements and Franchise Rights (Water System)	Patrick	Section II, p. 6
F. Depreciation Rates (Water System)	Patrick	Section VI, p. 39
G. Recording Water System Assets on books of CEG	Stull	Section II, p. 6
H. Approval of the Wastewater System Asset Purchase Agreement	Kaufman	Sec. VII, p. 24; X, p. 36; XI, p. 38
	Patrick	Section III, p. 11
I. Legal, Financial, Technical and Managerial Ability (Wastewater System)	Kaufman	Section III, p. 10 (Financial Ability)
	Pettijohn	Section II, p. 3 (Tech. Ability)
	Bell	Section V, p. 30 (Mgmt Ability)
J. United Water Service Indiana, LLC Agreement (Wastewater System)	Kaufman	Section IV, p. 12
K. Utility Rates (Wastewater System)	Stull	Section IV, p. 21
L. Rules and Regulations (Wastewater System)	Stull	Section V, p. 41
	Pettijohn	Section IV, p. 6
M. Depreciation Rates (Wastewater System)	Patrick	Section VI, p. 39
N. Assumption of Outstanding Debt (Water System)	Patrick	Section III, p. 11
O. Assumption of Outstanding Debt (Wastewater System)	Patrick	Section III, p. 11
P. Recording Wastewater System Assets on books of CEG	Stull	Section II, p. 6
Q. Environmental Compliance Plan (Wastewater System)	Bell	Section III, p. 12
	Kaufman	Section IX, p. 27
R. Operating Agreement to Allocate Corporate Costs (Wastewater System)	Stull	Section III, p. 17
S. Certificate of Territorial Authority (Wastewater System)	Pettijohn	Section III, p. 4
T. All Other Relief Necessary or Appropriate		

Cause No. 43936
City of Indianapolis and its Department of Waterworks
and its Sanitary District ("City of Indianapolis")
Responses to Office of Utility Consumer Counselor's
Fourteenth Set of Data Requests

GENERAL OBJECTIONS

1. The responses below are made solely for the purpose of this proceeding, and are not to be used in any manner in connection with any other proceeding or otherwise.

2. Any response to a Data Request set forth below is subject to all objections as to competence, relevance, materiality and admissibility, and any and all other objections on any applicable grounds, all of which objections and grounds are expressly reserved and may be interposed at the time of the evidentiary hearing in this matter.

3. Inadvertent identification or production of privileged writings or information is not a waiver of any applicable privilege. Production of writings or information does not waive any objection, including, but not limited to, relevancy to the admission of such writings in evidence.

4. City of Indianapolis objects to the extent any Data Request seeks disclosure of documents constituting, evidencing or reflecting confidential communications between City of Indianapolis and its attorneys or documents that are otherwise protected from disclosure by the attorney-client privilege or any other applicable privilege. City of Indianapolis may produce responsive documents without waiving the foregoing objection.

5. City of Indianapolis objects to the extent the Data Requests seek information or documents which are neither relevant nor material to, or are outside the scope of, the subject-matter involved in this proceeding, and which are not reasonably calculated to lead to the discovery of admissible evidence.

Cause No. 43936
City of Indianapolis and its Department of Waterworks
and its Sanitary District ("City of Indianapolis")
Responses to Office of Utility Consumer Counselor's
Fourteenth Set of Data Requests

6. City of Indianapolis objects to the Data Requests to the extent they purport to impose any obligation, including but not limited to an obligation to supplement responses, that is different from or additional to the obligations imposed under the Commission's rules and the Indiana Rules of Trial Procedure.

7. City of Indianapolis objects to the Data Requests to the extent they do not adequately describe the information requested or are otherwise overly broad and unduly burdensome. City of Indianapolis will conduct a reasonable search of its records where responsive information may be found without undue burden and will produce such documents that are not subject to privilege or other objection.

8. City of Indianapolis objects to the Data Requests to the extent they are not limited to any stated period of time or specify a period of time that is longer than is relevant to this proceeding or is otherwise overly broad and unduly burdensome.

9. City of Indianapolis objects to the Data Requests to the extent they request City of Indianapolis to perform a study, conduct an analysis or otherwise prepare information that does not currently exist.

Cause No. 43936
City of Indianapolis and its Department of Waterworks
and its Sanitary District ("City of Indianapolis")
Responses to Office of Utility Consumer Counselor's
Fourteenth Set of Data Requests

Q 14-1: On page 21 of the Petitioner's Exhibit CBL-7, Asset Purchase Agreement (wastewater utility), Section 2.04(d) it states the following:

"Purchaser shall finance, construct, implement and complete the Septic Tank Elimination Projects ("STEP") set forth in Schedule 2.04(d) upon the terms and in the timeframe established therein. At Closing, Sellers shall deliver by wire transfer from the Sanitary District's Sanitation General Fund (also known as the Sanitation Liquid Waste Fund) Four Million Seven Hundred Thousand Dollars (\$4,700,000) to compensate Purchaser for STEP Obligations under this subparagraph (d)."

Please answer the following questions regarding the STEP Projects:

- a) Please provide an estimated cost to complete each STEP Project listed in Schedule 2.04(d).

Answer: The estimated cost to complete each STEP Project listed in Schedule 2.04(d) is shown on attached Exhibit 1.

- b) Please provide the total estimated cost to complete all of the STEP Projects listed in Schedule 2.04(d).

Answer: The total estimated cost to complete all the STEP Projects listed in Schedule 2.04(d) is \$132,127,863 (See attached Exhibit 1)

- c) Please provide an estimated completion date for each STEP Project listed in Schedule 2.04(d).

Answer: The estimated completion date for each STEP Project listed in Schedule 2.04(d) is shown in attached Exhibit 1.

- d) Please estimate the number of failing septic tanks that will be eliminated after the completion of all the STEP Projects listed in Schedule 2.04(d).

Answer: The estimated number of septic tanks (note: not all septic tanks are in failure mode) that will be eliminated after the completion of all STEP Projects listed in Schedule 2.94(d) is 7,439 (See attached Exhibit 1)

- e) Please estimate the number of failing septic tanks will not be eliminated by the completion of all the STEP Projects listed in Schedule 2.04(d).

Cause No. 43936
City of Indianapolis and its Department of Waterworks
and its Sanitary District ("City of Indianapolis")
Responses to Office of Utility Consumer Counselor's
Fourteenth Set of Data Requests

Answer: The estimated number of failing septic tanks that will not be eliminated by completion of all STEP Projects listed in Schedule 2.04(d) is as follows: As of last count there are a total of 19,666 properties served by septic systems remaining beyond the above referenced septic systems from Schedule 2.04(d) within the Indianapolis Sanitary District. Not all septic systems are in failure mode, however, based upon analysis DPW has rated the remaining septic properties as follows: High Priority (known/recorded incidences of failing septic) 7,576; Medium Priority (little evidence of failing systems but still served by septic) 7,045 and Low Priority (no evidence of failing septic systems) 5,045. (See attached Exhibit 1 Answer 14-1e)

- f) Please state the estimated cost of eliminating the remaining failing septic systems.

Answer: The estimated cost of eliminating the remaining septic systems addressed in 14-1(e) above is \$578,991,100 (See attached Exhibit 1)

- g) For all failing septic systems not eliminated by the completion of the STEP Projects listed in Schedule 2.04(d), please state what entity (i.e. the City of Indianapolis, CWA Authority, CEG) will be responsible for the cost of eliminating the failing septic systems after the STEP Projects listed in Schedule 2.04(d) are complete. Please state the specific authority with reference to the specific provision establishing the responsible entity. If not already included in Petitioner's case, please provide a copy of the authority establishing the responsibility of the entity.

Answer: Please see Citizens Response to Data Request 15-1(g).

- h) For the preceding response, please explain why the entity identified as being responsible for the cost of eliminating the failing septic systems after the STEP Projects listed in Schedule 2.04(d) are complete.

Answer: Please see Citizens Response to Data Request 15-1(h).

- i) Excluding the \$4.7 million from the Sanitary District's Sanitation General Fund, how does CWA Authority plan to fund the completion of the STEP Projects identified in Schedule 2.04(d)?

Cause No. 43936
City of Indianapolis and its Department of Waterworks
and its Sanitary District ("City of Indianapolis")
Responses to Office of Utility Consumer Counselor's
Fourteenth Set of Data Requests

Answer: Please see Citizens Response to Data Request 15-1(i).

Stephen R. Nielsen*

- * Sources of information are indicated at the end of answers. Such sources are not necessarily witnesses.

Cause No. 43936
City of Indianapolis and its Department of Waterworks
and its Sanitary District ("City of Indianapolis")
Responses to Office of Utility Consumer Counselor's
Fourteenth Set of Data Requests

Q.14-2: Has the City of Indianapolis updated the Financial Capability Assessment portion of its 2006 Long Term Control Plan and submitted it to IDEM for review and/or approval? If so, please provide a copy of the updated Financial Capability Assessment portion of the Long Term Control Plan submitted to IDEM.

Answer: Yes, the City submitted a revised Financial Capability Assessment (FCA) to IDEM and USEPA on September 17, 2010 (See Attached Exhibit 2 FCA).

Stephen R. Nielsen

Cause No. 43936
City of Indianapolis and its Department of Waterworks
and its Sanitary District ("City of Indianapolis")
Responses to Office of Utility Consumer Counselor's
Fourteenth Set of Data Requests

Q 14-3: Has the City of Indianapolis updated any other portion of the 2006 Long Term Control Plan and submitted it to IDEM for review and/or approval? If so, please provide a copy.

Answer: Yes, internally the City updated the hydraulic modeling and, as a result, refined the sizing of CSO storage and wet weather treatment capacities needed at the Belmont and Southport AWT facilities. An update per se of the Long Term Control Plan (LTCP) has not been submitted to IDEM and USEPA, however, the internal information developed has been used for the approval of Consent Decree Amendment No. 1 and pending approval of Consent Decree Amendment No. 2 with USEPA and the US Department of Justice (Note: The City has a written Agreement in Principle with USEPA on the pending approval of Consent Decree Amendment No. 2).

Stephen R. Nielsen

Cause No. 43936
City of Indianapolis and its Department of Waterworks
and its Sanitary District ("City of Indianapolis")
Responses to Office of Utility Consumer Counselor's
Fourteenth Set of Data Requests

Q 14-4: In Exhibit AWM-1, the City of Indianapolis, Long Term Control Plan Report – September 2006, page 6-2, Table 6-1, identifies the Capital Improvement Project (CIP) Capital Costs by Program (i.e. Long Term Control Plan, Wastewater Improvements CIP, and Septic Tank Elimination Program). Please answer the following questions regarding Table 6-1:

- a) If the wastewater utility Asset Purchase Agreement is approved by the IURC, what entity (i.e. the City of Indianapolis, CWA Authority, CEG) will be responsible for paying for the CIP Capital Costs identified in Table 6-1 of the Long Term Control Plan?

Answer: Please see Citizen's response to Data Request 15-2(a).

- b) If the wastewater utility Asset Purchase Agreement is approved by the IURC, what entity will be responsible for paying for the Wastewater Improvements costs identified in Table 6-1 of the Long Term Control Plan?

- a) **Answer:** Please see Citizen's response to Data Request 15-2(b).

- c) If the wastewater utility Asset Purchase Agreement is approved by the IURC, what entity will be responsible for paying for the Septic Tank Elimination Program costs identified in Table 6-1 of the Long Term Control Plan?

Answer: Please see Citizen's response to Data Request 15-2(c).

Stephen R. Nielsen

Cause No. 43936
City of Indianapolis and its Department of Waterworks
and its Sanitary District ("City of Indianapolis")
Responses to Office of Utility Consumer Counselor's
Fourteenth Set of Data Requests

Q 14-5: On page 66 of the Consent Decree states the following:

"In the event that Indianapolis fails to complete the State SEP by December 31, 2010, Indianapolis shall pay the entire balance of the civil penalty, totaling \$588,900, plus interest at the rate established by IC 24-4.6-1-101."

Please answer the following questions:

- a) Please state whether the City of Indianapolis has completed the State SEP.

Answer: The physical construction of the State SEP has not been completed but is scheduled to be completed by December 14, 2010. The Consent Decree requirements are based upon when the City expends \$1.51M the City has "...120 days after (1) completion of the STEP project identified above or (2) the expenditure of at least \$1.51 million dollars toward the same..." The City has evaluated the expenditures as of October 4, 2010 and stated that as of September 30, 2010 the City has expended in excess of \$1.51M for the STEP SEP known as Banta/Southport (aka: Homecroft Phase 1). Accordingly, a SEP report as required by the Consent Decree is being prepared at this time to achieve the 120 day notification requirement of the expenditure.

- b) If the City of Indianapolis has not completed the State SEP, please indicate whether the State SEP will be completed by December 31, 2010.

Answer: See response to Q14-5a) above.

Stephen R. Nielsen

Exhibit 1
 Answers to Questions 14-1.a-f

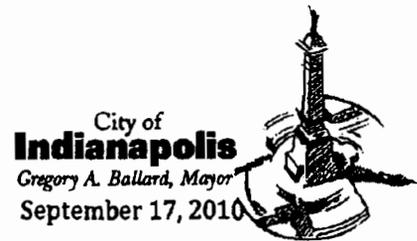
STEP Projects Listed in Schedule 2.04(d)

	Project No.	Description	14-1a - Cost to Complete Project	14-1c Estimated Completion Date	14-1d Septic Tanks Eliminated*
1	BL-27-042	Franklin Rawles Barrett Law Sanitary Sewer (PER-2)	\$ 64,893	10/25/2006	149
2	BL-33-053	Southeastern Corridor Phase 2 - Design (PER 5A)	\$ 655,082	Design Project Only	
3	BL-46-083B	Forest Park/Southport STEP (PER 3C)	\$ 745,306	5/9/2008	192
4	BL-46-004	Homecroft Phase I - Design	\$ 312,798	Design Project Only	
5	BL-46-007	Homecroft Phase II - Design	\$ 699,725	Design Project Only	
6	BL-41-003A	Franklin/Southeastern STEP (PER - 4B)	\$ 1,960,082	11/3/2009	440
7	BL-28-027A	10th/Mitthoefer STEP Sanitary Sewer (PER 5A)	\$ 486,160	7/15/2009	273
8	BL-46-083A	Bangor/Delaware STEP (PER 03C)	\$ 1,247,736	1/13/2010	298
9	BL-46-083D	Meridian/Stop 11 STEP (PER 3C)	\$ 2,557,848	7/5/2010	146
10	BL-10-069D	Fox Hill/Hoover STEP (PER 5B)	\$ 3,944,393	2/15/2011	176
11	BL-17-005	Northern Estates STEP	\$ 354,112	10/19/2009	14
12	BL-33-053C	Southeastern/Troy (Glenroy Village) STEP (PER-05A)	\$ 5,299,613	8/20/2010	238
13	BL-32-001	Brill/Troy STEP (PER 5B)	\$ 9,647,331	9/10/2011	528
14	BL-41-003F	Ferguson & Post STEP (PER-4B)	\$ 1,311,140	6/6/2010	59
15	BL-10-069A	59th/Grandview STEP (PER 5B)	\$ 2,561,911	5/30/2012	178
16	BL-10-069E	Sunset/Kessler STEP (PER 5B)	\$ 1,077,590	11/1/2011	78
17	BL-46-004A	Cragmont/Brill STEP (PER -5B)	\$ 2,981,735	5/13/2011	260
18	BL-46-004B	Edgewood/Shelby STEP (PER-5B)	Project combined with BL-46-004A		
19	BL-10-069B	63rd/Spring Mill STEP (PER 5B)	\$ 3,352,500	4/14/2012	103
20	BL-10-069C	64th/Whitley STEP (PER 5B)	\$ 704,700	4/14/2012	25
21	BL-28-027C	16th & Whitty STEP	\$ 1,753,989	7/1/2011	66
22	BL-46-007A	Banta/McFarland Barrett Law Sanitary Sewers (PER 5B)	\$ 9,604,441	4/1/2012	469
23	BL-46-007B	Brookdale/Fairhope Barrett Law Sanitary Sewers (PER 5B)	\$ 7,861,262	4/1/2012	299
24	BL-41-003D	Five Points/Southeastern STEP (PER-4B)	\$ 4,691,337	11/7/2011	198
25	BL-10-055	57th & Cooper STEP - Design	\$ 744,814	Design Project Only	
26	BL-10-055A	57th & Cooper STEP - Construction	\$ 7,746,300	9/1/2012	609
27	BL-38-001B	Camden/Thompson STEP	\$ 3,811,838	11/28/2012	231
28	BL-17-001	46th/Michigan Barrett Law Sanitary Sewers	\$ 9,827,750	8/27/2012	420
29	BL-17-002	38th & Kessler STEP	\$ 1,778,595	8/27/2012	126
30	BL-38-001J	Thompson Road STEP (with InDOT project)	\$ 675,000	12/31/2013	60
31	BL-41-003B	Thompson/Southeastern STEP (PER 4B)	\$ 6,986,700	8/1/2012	238
32	BL-04-001	86th/Washington, North STEP Sanitary Sewer Project	\$ 10,154,040	12/1/2012	371
33	BL-10-025	62nd/Michigan Barrett Law Sanitary Sewers	\$ 3,061,831	8/1/2012	248
34	BL-33-053A	Southeastern/Raymond STEP (PER-05A)	\$ 8,550,000	4/1/2013	226
35	BL-33-053E	Iona & Hunter STEP	\$ 2,970,000	5/31/2012	200
36	BL-32-003	South Keystone Area Barrett Law Sanitary Sewers	\$ 4,517,651	1/14/2015	357
37	BL-04-002	82nd/Meridian STEP Sanitary Sewer Projects	\$ 7,427,660	12/1/2015	164
* Based on Lateral Values in the Capital Improvement Database All Cash Flow values are based on the latest Sanitary Cash Flow Spreadsheet All Dates are based on schedules within the Capital Improvement Database			\$ 132,127,863	14-1b Total Cost to Complete	7439

Answer 14-1.e) - The estimated number of septic tanks not eliminated by the completion of all STEP projects listed in Schedule 2.04(d) = 19,666
 [(High Priority = 7,576) + (Medium Priority = 7,045) + (Low Priority = 5,045) = Total 19,666].

Answer 14-1.f) - The estimated capital cost of eliminating the remaining septic systems (total 19,666), including CIP Needs = \$578,991,100
 [(\$215,688,700 High Priority) + (\$200,571,200 Medium Priority) + (\$143,631,200 Low Priority) + (\$19,100,000 CIP Needs) = Total \$578,991,100]
 Note: All costs are expressed in terms of 2008 dollars (ENRCCI = 8,570). All estimates are Class 4, as defined under AACE Cost Estimating Classes.

Exhibit 2 (FCA)



Sent Via E-Mail

Indiana Department of Environmental Management
100 N. Senate Ave.
MC 65-42 IGCN 1255
Indianapolis, IN 46204-2251

Attention: Mr. Todd Trinkle

RE: City of Indianapolis CSO Consent Decree - 1:06-cv-01456-DFH-JMS
Update to City of Indianapolis Long Term Control Plan Financial
Capability Assessment

Dear Mr. Trinkle:

At the request of United States Environmental Protection Agency (US EPA) and the Indiana Department of Environmental Management (IDEM), the City of Indianapolis (city) has been preparing the update of the city's Long Term Control Plan (LTCP) Financial Capability Assessment (FCA) (i.e. Section 6 of the city's LTCP). Although all parties have agreed that the update of the FCA is not a condition of approval for Amendment 2, IDEM and US EPA have requested an early update to this section of the LTCP.

As further requested, the update does address Amendment No. 1 and Amendment 2 to the city's LTCP Consent Decree (CD). Amendment 1 was for the change from the Interplant Connection to the Deep Rock Tunnel Connector. In Amendment 2 (pending approval) the city, US EPA, and IDEM worked successfully to modify 14 of the city's 31 CD Control Measure projects. These amendments provided for more sewage to be captured sooner; additional tunnels to be constructed; and more cost effective implementation of remaining CD projects, which is being addressed in the FCA update.

Factors that have also been re-analyzed and updated are as follows:

1. City's overall financial wastewater burden;
2. Updated demographic data;
3. Updated economic data;
4. An analysis of industrial flow and revenue data and the resulting impact upon non-industrial customers; and
5. Inclusion of apartment household data.

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September 17, 2010
Page 2 of 2

In the city's 2006 Consent Decree, US EPA and IDEM acknowledged the city adequately followed national CSO Policy and Indiana Law in the development process of its LTCP. Accordingly, the city followed the same LTCP development process, although with more refined and updated demographic and census data, industrial analyses, and the inclusion of apartment household data that was requested by US EPA in 2009.

As you will be able to see, the analyses and level of effort that went into this update are significant. Updated information was obtained from a number of documented sources, including the U.S. Census Bureau, the city's detailed billing system, Engineering News Record (ENR), and a team of technical and financial professionals. Although this analysis demonstrates an overall higher burden and weaker financial capability than was indicated in 2006, the city has maintained its commitment to adhere to the same level of control and implementation schedule of 2025.

I would like to personally thank US EPA and IDEM for their efforts in working with the city throughout the LTCP development and these amendment processes. We look forward to your comments, if any, on this submittal, and as you review this document, please note that the city will continue to move forward with its Consent Decree and overall wastewater programs.

Should you have any questions or comments, please contact Mr. Stephen Nielsen at (317) 327-2381 or via email at Steve.Nielsen@indy.gov.

Sincerely,



David R. Sherman
City of Indianapolis
Director / Department of Public Works

Attachment: Updated Financial Capability Assessment

cc: Stephen Nielsen, Indianapolis Department of Public Works
Robert Masbaum, Indianapolis Department of Public Works
Mark C. Jacob, DPW/Indianapolis Clean Stream Team
Douglas R. Reichlin, DPW/Indianapolis Clean Stream Team
Christopher J. Ranck, DPW/Indianapolis Clean Stream Team
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Bruno Pigott, IDEM/OWQ
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Cyndi Wagner, IDEM/OWQ
Beth Admire, IDEM/OWQ
File - CONSENT DECREE\Updated FCA 091710 (F)\8006

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Financial Capability Assessment

6.0 Financial Capability Assessment

Contents:

- 6.1 Introduction
- 6.2 Key Assumptions
- 6.3 Projected Revenue Requirements,
Financing and Rate Impacts
- 6.4 U.S. EPA Financial Capability Assessment
- 6.5 Summary

6.1 Introduction

Financial capability is a significant factor affecting a community's CSO long-term control plan (LTCP). According to U.S. EPA's 1994 CSO Guidance for Long-Term Control Plan:

"The CSO Policy recognizes the need to address the relative importance of environmental and financial issues when developing an implementation schedule for CSO controls to be contained in the LTCP and the NPDES permit or other enforceable mechanism. According to the CSO Policy, an implementation schedule "may be phased based on the relative importance of adverse impacts upon WQS and designated uses, priority projects identified in the long term control plan, and on the permittee's financial capability"

As part of LTCP development, the ability of the municipality to finance the final recommendations should be considered. The CSO Control Policy¹ "...recognizes that financial considerations are a major factor affecting the implementation of CSO controls... [and]...allows consideration of...financial capability in connection with the [LTCP] effort...and negotiation of enforceable schedules." The CSO Control Policy also specifically states that "...schedules for implementation of the CSO controls may be phased based on...a permittee's financial capability."²

Additionally, U.S. EPA Guidance Document for Financial Capability Assessment and Schedule Development³ stresses that this guidance document is "*intended solely as guidance*" and that the EPA and state officials "*may decide to follow the guidance as provided in this document, or to act at variance with this guidance, based on an analysis of specific site circumstances.*" The document also encourages permittee's to "*submit documentation that would create a more accurate and complete picture of their financial capability.*"

This section describes the methodology and results of applying U.S. EPA's financial capability process to the Indianapolis updated long-term control plan as amended by Amendment #1 and pending Amendment #2. The focus of this effort is to estimate the expected cost per household for Indianapolis' customers for the Wastewater Treatment and CSO Controls as a percentage of median household

income. It will then assess how the debt, socioeconomic and financial conditions affect the permittee's financial capability to implement CSO Controls. This guidance document is not binding and the resulting analysis may not fully capture the fiscal stress and/or ability of Indianapolis residents to fund CSO controls. The city has projected future revenue requirements and associated rates, taking into account current costs to operate the city's system, how those costs will change over time, existing debt service, and future debt service resulting from anticipated and identified capital improvements. The city's original planning horizon for evaluating the impacts of the LTCP exceeded 20 years.

The city developed its financial projections consistent with the way it develops rate projections; establishing revenue requirements based on projected capital, operations and maintenance, debt service and other required system expenditures, with all costs stated in future year dollar terms. Thus, household bills in 2015 reflect what the city estimates households will actually pay in that year. For purposes of the affordability analysis, these future household rates are compared to projected household incomes in the corresponding year. This is consistent with the approach used by a number of other municipal sewer agencies and allows cost comparisons to be made on a consistent basis which gives the city a realistic picture of actions required to raise needed revenue.

In developing these projections, the city has sought to estimate the future burden of the CSO program in addition to the full wastewater system's long-term needs, as currently understood by the city. The city has evaluated the impact of the long-term control plan and other wastewater needs by projecting long-term revenue requirements and then estimating typical household sanitary sewer costs based on estimated rates. The residential indicator is based on the average annual cost per household relative to projected median household income for each year over the forecast period.

6.2 Key Assumptions

The key assumptions used to develop and update these projections are:

- Using U.S. Census data for the Consolidated City best captures the city's retail service area. Most customers outside the Consolidated City are served through wholesale contracts, which hinder the ability of the city to readily pass through rate increases and where the wholesale customer has little to no responsibility for combined sewers or other collection system improvement needs. See Section 6.3.1 for further discussion of the Consolidated City and wholesale customers (also referred to as Satellite customers). Future trends for projecting population, households and median household income were based on historic growth rates, using Census Data.
- Estimates for residential customers were projected to grow modestly at 0.69% per annum, based upon actual growth experience in the number of residential customers since 2000.
- The model assumes that the flow and number of commercial customer accounts remains static over the period, consistent with historic experience over the last decade.

¹ 59 Federal Register

² U.S. EPA Office of Water, EPA 832-B-95-002, September 1995, P.3-66

³ U.S. EPA Office of Water, EPA 832-B-97-004, March 1997, P.1-59

Financial Capability Assessment

- Industrial revenues were assumed to decline at a rate of 3.0% per year from the 2009 baseline in response to increasing user fees, for both flow based charges and for strength surcharges for Biochemical Oxygen Demand (BOD), total suspended solids (TSS) and ammonia (NH₃). This estimate was supported by an analysis of historic industrial revenue patterns since 2000 when the City began raising rates, as well as specific analysis of existing industry trends and direct discussions with several large, significant dischargers. A summary of the full analysis can be found in section 6.3.2
- Labor costs for the existing systems are projected to increase at an average annual rate of 4.0 percent based on historical averages and Bureau of Labor statistics. Pension costs are estimated to increase between 7 to 8 percent based on the actual increase from 2007 to 2008 and comparisons to similar plans tracked by the Bureau of Labor statistics. Contract operations costs are calculated to increase by 3.5 percent annually based on the 2008 renegotiated operations and maintenance contract which requires the use of an annual fixed escalator equation incorporating annual changes in the CPI and ECI cost indices. Based on language provided in the agreement, it was assumed that any additional operation and maintenance costs due to new infrastructure improvements would be negotiated on a case by case basis. To develop cost schedules, individual projects were examined and incremental annual operation and maintenance cost increases were included based on scheduled construction completion dates. The average annual operating costs associated with these incremental capital investments approximate just under one percent (1%) of the total additional capital investments throughout the LTCP's remaining life (thru 2025).
- Capital costs are projected to escalate consistent with the 30-year average national Engineering News Record (ENR) construction cost index, which equates to an increase of 3.744 percent per annum.
- During the peak construction period of 2012 to 2022, the city assumes that the costs will increase at an additional 2 percent per year above the historical national ENR index due to the very high anticipated level of construction in the city and surrounding communities. This is the Boston "Big Dig" effect that was realized when a community has multiple high profile, multi-million dollar programs all happening during the same time period.
- The city's repair, replacement and capital maintenance activities are assumed to increase over time, reflecting the increased attention the facilities will require as they age. As a rule of thumb, equipment would require rehabilitation or replacement on a 15 to 20 year life cycle, while infrastructure might last 40 to 50 years. As fixed assets approach the twilight of their useful life, the cost and frequency of repairs and maintenance can be expected to increase over time until replacement or rehabilitation ultimately becomes necessary. At that point the cycle repeats.
- The city's capital improvement program assumes that the city will move forward with an affordable approach during the forecast period with the following plans and projects: LTCP, the Large and Mid-Diameter Combined Sewer Master Plans, the Sanitary Sewer Master Plan, the Basin Master Plan, STEP Master Plan, as well as other projected wastewater improvements and maintenance needs within the collection system and at the city's two treatment plants. The above costs do not include the costs of complying with state and federal storm water management requirements, which are expected to become more stringent during the 20-year planning period.
- The city assumes that it will finance this CIP with a combination of State Revolving Fund (SRF) bonds, open market revenue bonds and 'pay-as-you-go' funds. The city is hoping to obtain SRF financing for approximately 15 to 20 percent of this CIP, although this could be further constrained by limited state and federal funding. Over the 20-year LTCP implementation period, the city has assumed that all SRF debt issued will have a term of 20 years with an average interest rate of 4.6 percent. The city assumes that all open market revenue bond issues will have a term of 30 years with an average interest rate of 7.0 percent. "Pay as you go" (i.e. cash) funds are budgeted funds from the city's sanitation general fund and are expected to remain level each year.
- Consistent with revenue bond requirements, it is assumed that the city will set rates to comply with a debt service coverage ratio of 130 percent, a modest cushion to the required 125% rate covenant. This has marginal impact on future rates, since the revenues generated through coverage are typically used to fund pay-as-you-go capital and other system expenses.
- The city relied heavily on Indiana State Revolving Fund (SRF) subsidized loans to fund its initial LTCP projects during the 1998-2009 period. However, the size of Indianapolis' capital program in coming years will dwarf available funds. In addition, SRF made a series of policy changes, making access to and application of funding more difficult. For instance, in recent years roughly half of the SRF subsidized loan funds were targeted to communities with populations over 10,000. In addition, SRF will only fund planning and design contracts at the time of construction. During the awarding of American Recovery and Resource Act (ARRA) grant funds in 2009, Indianapolis was not able to secure any of the approximately \$100 million in grant monies made by the State of Indiana for wastewater and the prospect for substantial funding from SRF in the future is limited. The city will continue to utilize the program to the extent funds are available. In addition to the availability of funding, other tradeoffs include: timing of available funding, 20 year maximum term, Davis-Bacon wage requirements, increased engineering, regulatory and administrative costs. Although total debt service over the life of a 30 year bond is greater than using 20 year debt, the city can achieve lower user fee rates by using 30 year open market revenue bonds to extend maturities and smooth out the rate curve. As a result, the city is evaluating the use of 30 year open market bonds to finance a majority of its entire wastewater capital plan.
- In preparing the long term capital plan the City has broken down the program into 6 phases. Phase 0 undertook early

Financial Capability Assessment

action projects from 1997-2000. Phase I included projects in the years 2000-2005. Phase II includes all project costs within the years 2006-2010. Phase III includes all project costs from 2011-2015. Phase IV includes all project costs from 2016-2020, and Phase V includes all project costs necessary to finalize the LTCP from 2021-2025. The costs, either actual or projected, for each phase listed above is included in the capital plans located in Table 6-1.

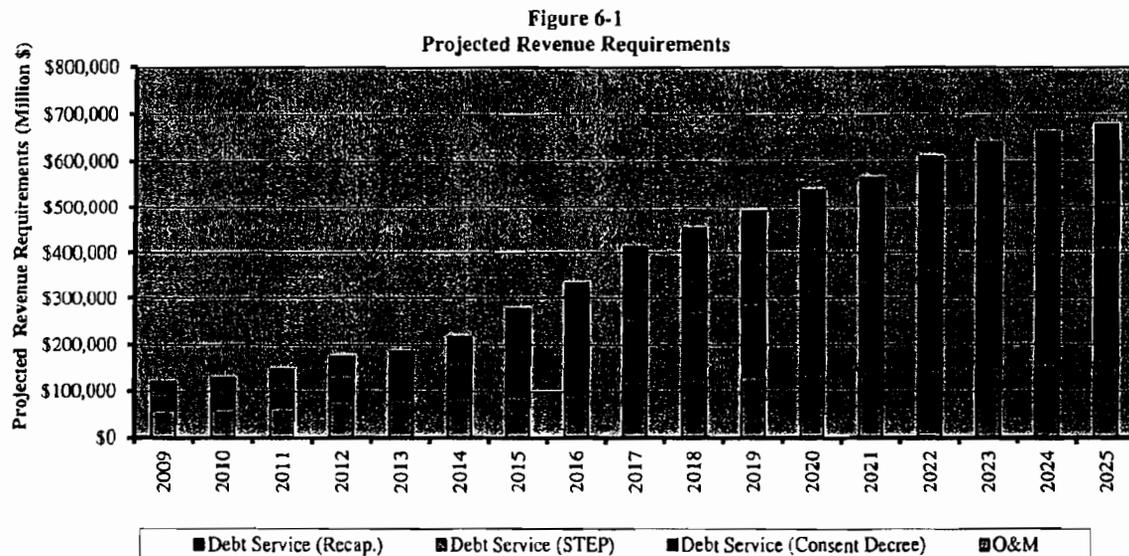
The total capital needed by the City of Indianapolis through 2025 is estimated at nearly \$5.538 billion (future dollars, at the time of construction) to fund both CSO improvements required by the twice amended LTCP and other projected wastewater collection and treatment needs. The details of the long-term control plan are described in Section 7.0 of the original LTCP, as amended. For purposes of the financial capability assessment, the city analyzed LTCP Plan 1, as amended, at 97 percent capture on Fall Creek and 95 percent capture on the remaining streams, implemented through 2025. The total capital needed for the LTCP is estimated at \$1.407 billion in 2004 dollars or \$2.579 billion in future dollars (Table 6-1). Amendment #1 to the consent decree project listing in Table 7-5 of the original LTCP was the exchange of the shallow soft ground tunnel, called the Interplant Connection and revising it to a deep rock tunnel, called the Deep Rock Tunnel Connector, between the Belmont Advanced Wastewater Treatment Plant and the Southport Advanced Wastewater Treatment Plant.

Amendment #2, which has been approved by EPA and is awaiting submission into the Federal Register, modifies the remainders of the tunnel projects, the Southport and Belmont Treatment plant projects, and the addition of the Belmont North Parallel Interceptor project.

The Wastewater Improvements CIP assumes that the city implements the various master plans that have been prepared for the city, together with other wastewater improvement and maintenance needs. These various master plans include the Sanitary Sewer Master Plan, the Large and Mid-Diameter Combined Sewer Master Plans, Basin Master Plan and other projected capital improvements and maintenance needs at the AWT plants and throughout the collection system. Since the costs published in the various master plans were developed at different times, all costs were converted to a common dollar base (2004 dollars) through 2025. The total remaining capital needs for the Wastewater Improvements CIP is estimated at \$0.970 billion in 2004 dollars or \$1.797 billion in future dollars (Table 6-1). Finally, the city is assumed to accelerate extension of sanitary sewers to replace the approximately 27,793 failing septic systems within the retail service area. The total capital needed for the 27,793 homes that are included in the Septic Tank Elimination Program is estimated at \$678 million in 2004 dollars or \$1.162 billion in future dollars (Table 6-1).

Program	2005 CIP (2004\$)	2010 CIP (2004\$)	2010 CIP (2010\$)	2010 CIP (at time of construction)
Consent Decree	\$1.668	\$1.407	\$1.602	\$2.579
STEP	\$0.319	\$0.678	\$0.800	\$1.162
Recapitalization, & Expansion	\$1.546	\$0.970	\$1.357	\$1.797
Totals	\$3.553	\$3.055	\$3.759	\$5.538

All above numbers are in Billions of dollars



Financial Capability Assessment

6.3 Projected Revenue Requirements, Financing and Rate Impacts

Figure 6-1 displays the projected revenue requirements for the wastewater system over the forecast period.

For the period 2005 to 2015, the average annual increase in revenue requirements will exceed 15 percent. Over the 20 year period, 2005-2025, the city's revenue requirements will increase by approximately 12.4 percent per year. As Figure 6-1 shows, new debt service to ensure the long-term integrity of the system and Consent Decree (CD) compliance causes the greatest increases in revenue requirements. CD debt service will increase from less than 5 percent of total revenue requirements in 2005 to nearly 35 percent in 2025. Similarly, debt service to fund ongoing improvements to the existing sanitary system is projected to increase to 24 percent of the existing revenue requirement. The worldwide deterioration in the credit markets in 2008 sharply curtailed the prior practice of funding required Debt Service Reserve Funds with bond insurance surety policies. Although the debt markets have recovered, there is limited availability of highly-rated insurers and pricing has not returned to pre-crash levels. As a consequence, the 2010 analysis requires over \$362 million be utilized to either bond or cash fund the reserve accounts. The incremental cost of the Debt Service Reserve Funds will be partially offset by interest earnings on these accounts. Overall, payments for debt service and the revenue required to meet the Debt Service Coverage test will consume over three-quarters of the wastewater revenues in 2025.

6.3.1 Impact on Future Rates and Affordability

The city's current residential rate structure includes both a minimum base charge per month and a volume-based charge. The volume-based charge is allocated among retail customers based on metered water consumption. (A small number of retail customers do not have municipal water service, and therefore pay a flat rate).

The city's 2010 baseline retail rate consisted of a monthly base billing charge of \$6.29 and a commodity rate of \$2.91/1000 gallons per month for the first 7,500 gallons and \$3.06/1000 gallons for usage over 7,500 gallons per month. There was also a minimum charge, such that no customer paid less than \$16.86 per month. For the average residential customer using approximately 67,200 gallons per year, the annual bill in 2010 was approximately \$271 per year – more than double the rate in 2005. Residential bills are projected to increase by an annual average exceeding 13.7 percent during the LTCP implementation period (2005-2025). The City-

County Council has demonstrated a commitment to funding necessary capital improvements. Predating the signing of the consent decree, in both 2001 and 2005, the City County Council approved rate increases. In 2001 a 17% across the board rate increase was approved, and in 2005 a three year phased rate increase was approved, which resulted in a 77% increase in revenues by 2008. The Council also approved a new rate structure in April, 2009, that will raise rates approximately 10.75 percent annually in the years 2009-2013.

There are also seven (7) separate wholesale contract agreements for satellite communities. Each wholesale contract has been negotiated on a case-by-case basis; each has a different rate, rate structure methodology and process for adjusting those wholesale charges to reflect changes in the cost of service. In most cases, these are long-term contracts with limited legal options for modification. The Satellite (wholesale) customers all pay their pro rata share of the direct treatment plant O&M costs through their monthly usage fees. However, depending upon their respective connection points, the Satellite customers do not all contribute equally to the City's collection system costs. The City's two largest Satellite customers (Cities of Greenwood and Lawrence) also pay for their share of the specific regional interceptor capital costs, for interceptors that convey their wastewater to the Southport advanced wastewater treatment (AWT) facility. However, because of their locations outside of the CSO area, none of the Satellite agreements contemplate payments for the City's CSOs. Furthermore, the city does not control how retail rates are set inside the wholesale customer's service area. While the city has assumed that wholesale customers will pay a share of the increased costs to at least cover inflation, this assumption has not been borne out by historic experience. In 2009, wholesale customers accounted for over 18% of system-wide flows but paid only 6.0% of user fee revenues.

Under the U.S. EPA guidance, a key measure of affordability is the Residential Indicator: the ratio of the wastewater user cost per household to median household income (MHI). The Residential Indicator is compared to EPA-defined criteria to determine whether costs impose a low, mid-range or high impact on residential users. Figure 6-2 shows U.S. EPA's Residential Indicator criteria, which define a "low" impact as a cost per household less than 1.0 percent of MHI, a "mid-range" impact between 1.0 and 2.0 percent, and "high" impact as greater than 2.0 percent of MHI. For the LTCP implementation period, the residential indicator for Indianapolis is projected over time in Figure 6-3.

Figure 6-2
Residential Indicator Criteria, U.S. EPA Guidance

Financial Impact	Cost per Household
Low	Less than 1.0 percent of MHI
Mid-Range	1.0 to 2.0 percent of MHI
High	Greater than 2 percent of MHI

Note: Low impact equate to strong financial capability; high impact equates to weak financial capability

Financial Capability Assessment

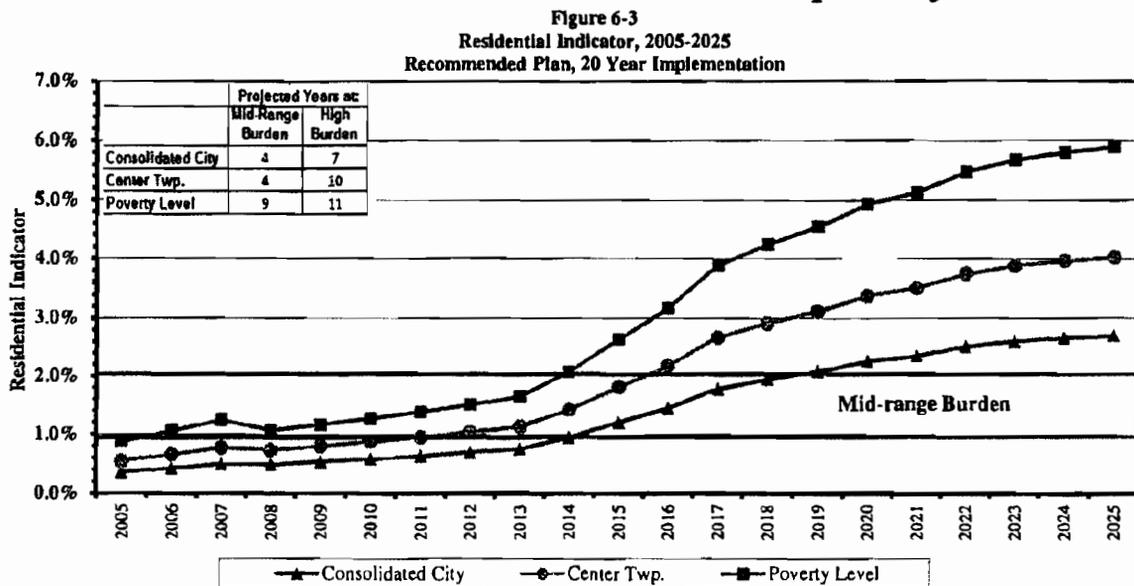


Figure 6-3 presents the data for three “classes” of households. The first is the Consolidated City, which best represents the city’s retail service area. The consolidation of city and county governments in Marion County left four “excluded cities” that retained local control. Marion County also contains an independent conservancy district (Ben Davis). Lawrence, Beech Grove and the Ben Davis Conservancy District have wholesale contracts with the City of Indianapolis for sewage treatment services. Southport does not own its collection or treatment systems. Its residents are simply billed as retail customers of the Indianapolis sewer system. The fourth excluded city, Speedway, operates its own sewage collection system and wastewater treatment plant. Several smaller communities outside Marion County also receive wholesale sewage treatment services from the City of Indianapolis. Figure 6-4 provides a map of Marion County, showing the excluded cities, Ben Davis Conservancy District, township boundaries and out-of-county wholesale customers. U.S. Census data for the Consolidated City includes all of Marion County except the excluded cities of Lawrence, Beech Grove, Southport and Speedway.

Figure 6-3 also shows residential indicators for the median household in Center Township and for a household at or below the poverty level. According to U.S. Census data, almost a third of the residents of Center Township live at or below Poverty Levels, almost twice the percentage for the Consolidated City. The Residential Indicator and financial impact on these low-income segments of the service area are significantly greater than they are for the consolidated city service area as a whole.

For the median Consolidated City household, the residential indicator will increase from below 0.5 percent in 2005 to nearly 1.0 percent by 2014 and exceed 2.0 percent by 2019. This median household will bear a sewer bill exceeding 1 percent of income for 11 years of the forecast period. For Center Township, the

city’s most populous and poorest township, the residential indicator will grow from over 0.5 percent in 2005 to approximately 1.0 percent by 2012 and over 2.0 percent (high impact) by 2016. For poverty-level households, the situation is more severe. The residential indicator will rise from nearly 1 percent in 2005 to over 2 percent in 2014.

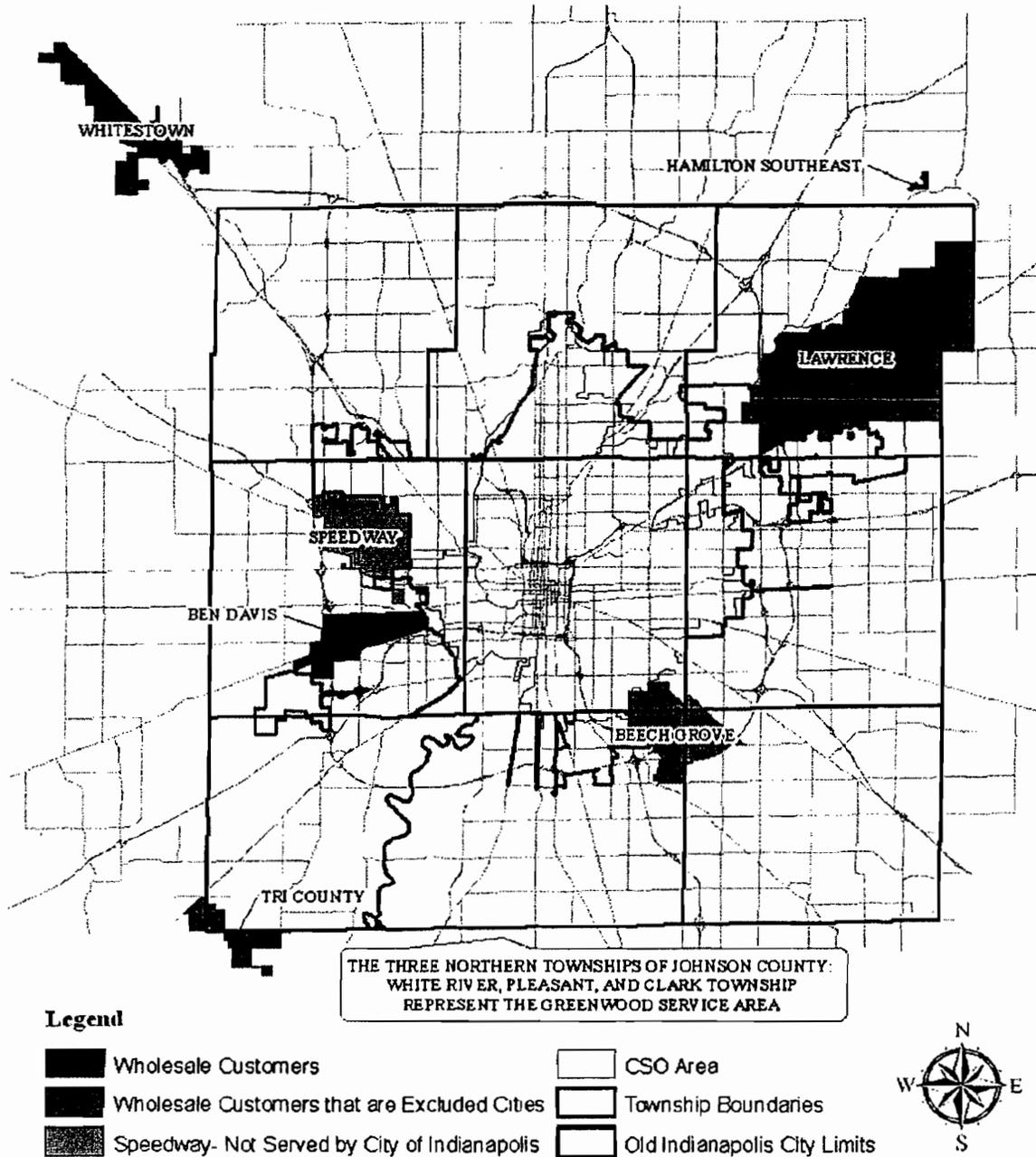
Based on these projections and using the U.S. EPA guidance, the city anticipates that the residential burden will reach the high burden range for the service area’s median household in or about 2019. That burden level is projected to persist through the end of the LTCP implementation period (2025) and beyond. For the other classes of the city’s residential base (Center Township and poverty-level households), the burden is projected to be well within the high burden category beginning in approximately 2016 for Center Township and 2014 for poverty-level households. That burden will remain throughout the forecast period and a significant period beyond 2025.

The cost of the capital program will be funded through future rate increases, which in turn will support the issuance of long term debt – a burden disproportionately paid by residential consumers. It is estimated that residential consumers will be paying for over 50 percent of the cost of the wastewater system. Residential bills are projected to increase by an annual average exceeding 13.7 percent during the 20 year LTCP implementation period. However, because the debt issued will be long-term debt, the financial burden on Indianapolis’ citizens will continue for 30 years beyond 2025 (when the 2025 revenue bonds mature in 2055).

The city believes that these projections are reasonable; however, these projections are subject to actual construction costs, which may vary from the city’s current projections.

Financial Capability Assessment

Figure 6-4
Indianapolis Sanitary Sewer Service Area



Financial Capability Assessment

6.3.2 Industrial Customer Analysis

The City reviewed the historic contribution from industrial discharge revenues for flow and load surcharges for the period from 2000 through a mid-year projection for 2010. The analysis utilized a "rate normalized" comparison to allow determination of any trends in real revenues relative to the baseline year of 2000, as a response to rate increases over the period. Figure 6.5 below, shows that the actual reduction in annual rate normalized industrial revenues has been approximately 25%, or 3.0 percent per year from 2000 – mid 2010, reflecting the cumulative loss of industries, reduction of discharges, and implementation of pretreatment steps by dischargers in response to increasing rates levied by the City. The higher data points in 2007 and 2008 have been attributed to two abnormally high years of deicer discharge from the Indianapolis International Airport, along with unusually high discharges at seven other significant industries all occurring concurrently in 2008. These did not represent a sustainable increase or upward trend. This is reinforced by the 2009 actual and 2010 projected annual revenues, which returned to the long term reduction trend and represented near normal airport and other industry discharges.

The major contributions to this reduction are noted in Figure 6.6 and include:

- The elimination of \$1M/yr. of normalized revenue from alum sludge discharge to the sewer by the Department of Waterworks beginning in 2003;
- Reduction of \$1M/yr. of normalized revenue from National Starch, following implementation of initial product recovery and recycling in 2004.
- Cumulative additional losses of \$1M/yr. of normalized revenue from over a dozen significant dischargers during the period 2002 – 2005 due to shutdowns, waste reduction or waste elimination.

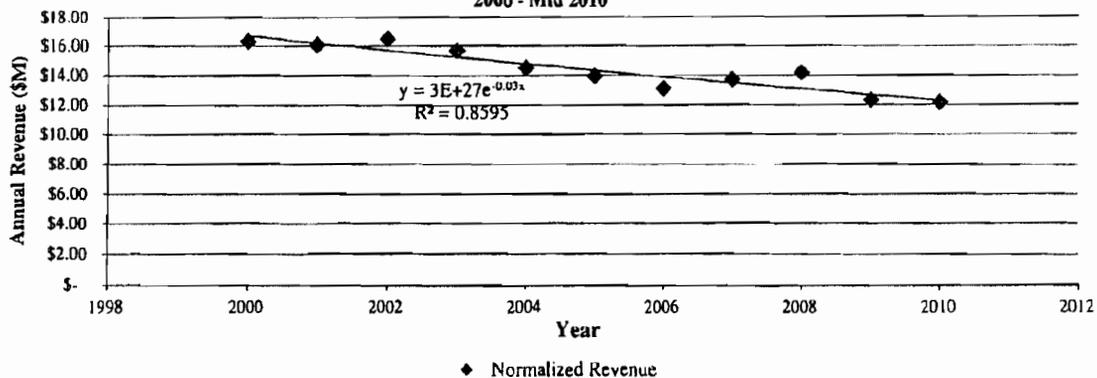
Revenues in subsequent years are project to be reduced by the long-term average trend of 3% per year.

Direct discussions with several of the most significant dischargers indicates that they have begun planning for implementing additional water conservation, waste minimization, product recovery and/or pretreatment steps as the water and sewer rates continue to escalate. One industry in particular, National Starch, representing nearly 40% of the annual industrial revenue stream, already implemented waste recovery in 2004, as mentioned above, and has plans to implement additional wastewater pretreatment steps from this source sometime between 2013 – 2015 that will further reduce annual rate normalized revenues by at least \$1M, or 8% of total annual industrial revenues. As rates continue to increase, this particular industry, like others, will continue to implement additional waste discharge cost reduction strategies as they become cost-effective, that will result in an ever lower contribution of industrial revenues to the City.

The 2010 baseline revenues were established from the mid-year projection of 2010 revenues. While the actual reaction of industrial dischargers to rate increases is difficult to predict, the city believes that the historic 3.0% per year reduction is sustainable over the planning period, especially considering that future rate increases after 2010 will be even more dramatic than historic rate increases from 2000 – 2010. This will result in a cumulative 53% reduction in industrial flows and strength volumes over the period 2000 to 2025. This level of reduction can be supported from reasonable cost-effective steps that can be implemented by industries over the period. Figure 6-6 shows the rate normalized revenues and sources (flow, BOD, TSS, NH3) from 2000 through the 2013 year projection, along with highlights of significant changes, as discussed above.

Figure 6-6 illustrates the specific historic response to rate increases from the normalized starting year in 2000. By 2010, rates have increased more than 130% over 2000 baseline levels, while rate-normalized revenues have dropped by approximately 25%, as discussed above. Projected rates at the end of 2013 using the recently approved 5 year rate increase schedule will result in cumulative rate increases of nearly 250% of the baseline 2000 rates, with an additional drop in normalized revenue of approximately \$1M, or 8%.

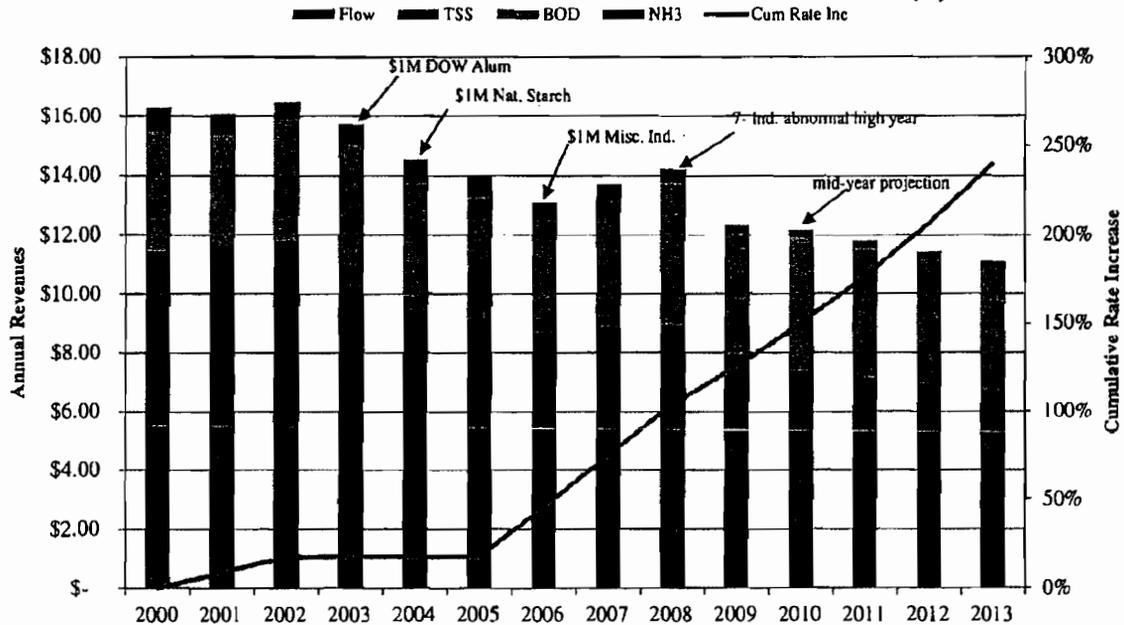
Figure 6-5
 Rate Normalized Revenue Trend and Projection
 Flow and Surcharge Revenues Combined
 2000 - Mid 2010



Financial Capability Assessment

Figure 6-6
Rate Normalized Industrial Revenues &
Cumulative Rate Increases
2000 - 2014 projected

Assume 3%/year revenue reduction
 from 2010 Baseline from Mid-year budget
 projection



6.3.3 Impacts of Future Competition and Inflation of Capital Costs

Program affordability may be negatively impacted if inflation of the capital costs increases dramatically during this 20-year timeframe. Based on currently available plans, the regional construction market will face significant competition given the large amount of public and private construction anticipated to occur. The city believes this will result in significant price increases for technical services, construction workers, materials and supplies in excess of that in the national construction market. The anticipated level of construction is summarized in Figure 6-7. Significant projects include:

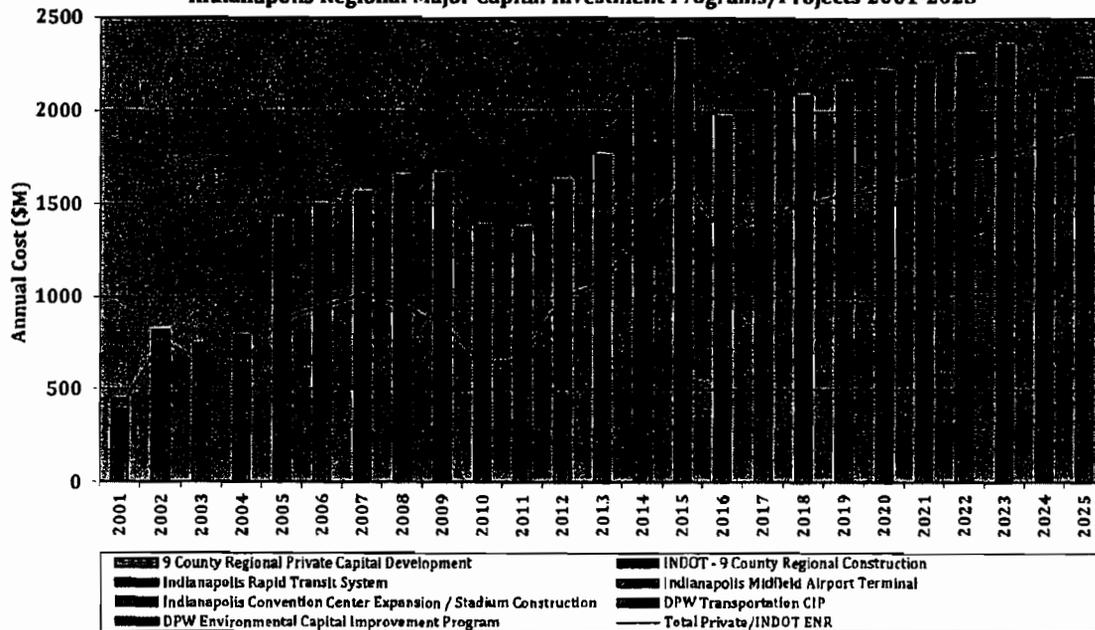
- Indianapolis International Airport Expansion (completed 2009)
- Convention Center expansion – (Estimated completion 2012)
- J.W. Marriott Hotel Complex (Estimated completion 2012)
- Market Square Arena site residential/commercial development
- Indianapolis Rapid Transit investments
- New Hospital construction (Wishard, Methodist, Clarian)
- Super Bowl Infrastructure
- Other CSO Communities (similar construction)
- Major Moves (10-Year Statewide Transportation Improvement Program – Estimated \$12 Billion) Includes:
 - Interstate 465 rehabilitation/reconstruction (Estimated completion 2013).
 - Interstate 69 construction (Estimated completion 2014)

These projects are in addition to standard infrastructure expenditures in the sectors of roads and bridges, transit and water. The volume of work generated by these projects, along with the city's CSO, sanitary, and transportation programs, will stretch local construction firms to the limits of their equipment and manpower resources. As seen in Figure 6-7, construction spending is projected to increase from the historical average of approximately \$650 million per year in 2001-04 to more than \$1.5 billion per year – nearly tripling on an annual basis.

In addition, the city is concerned that the large number of CSO programs underway during this same time period in the Midwest will stretch the specialized construction resources associated with these types of programs. The concern is especially true for large diameter tunnels, which 6 of the 10 communities in Table 6-2 will be undertaking. Table 6-2 shows ten Midwestern cities that have estimated CSO control programs totaling approximately \$12.6 billion, which includes the City of Indianapolis' CSO program, and excludes over a hundred CSO plans being implemented by smaller Indiana and other Midwestern communities.

Financial Capability Assessment

**Figure 6-7
 Indianapolis Regional Major Capital Investment Programs/Projects 2001-2025**



Notes: Costs shown on this chart are expressed in terms of Estimated ENRCCI over project period.

City	Estimated CSO Control Program (2004\$) in Billions 2005	Estimated CSO Control Program (2004\$) in Billions 2010
Pittsburgh, PA	\$3.000	\$3.000
Cleveland, OH	\$1.600	\$1.600
Cincinnati, OH	\$1.500	\$1.500
Columbus, OH	\$1.500	\$2.460
Detroit, MI	\$1.400	\$1.400
Toledo, OH	\$0.800	\$0.450
Akron, OH	\$0.400	\$0.400
Youngstown, OH	\$0.400	\$0.112
Fort Wayne, IN	N/A	\$0.270

Given this high concentration of similar programs in the region, the city expects considerable regional competition for engineering and construction resources. Construction resources can be the most critical component for achieving required implementation schedules.

Given the large amount of anticipated construction and the concentration of CSO-related programs, as well as similar impacts in other areas of the country, the city believes that its capital costs will increase faster than the historic national ENR index. Therefore, these projections assume that capital costs will increase at a rate two percentage points higher than the projected national ENR index

during the period 2012 to 2022. Much like Boston observed during the construction of the "Big Dig" project, the city anticipates upward pressure on its labor costs for operating and maintaining the sewer system and has assumed that these costs will increase at a rate two percentage points higher than the Engineering News Record 30 year average index during the same time period.

6.3.4 Financing Assumptions

The projections of burden and the residential indicator are extremely sensitive to assumptions regarding debt. The city has assumed that it will finance its program with a combination of state

Financial Capability Assessment

revolving fund loans and city-issued revenue bonds. The financing assumptions are dependent upon:

- The proportion of debt actually placed with the SRF
- Actual market rates over the forecast period

The city's projections assume that roughly 15 to 20 percent of the projected CIP (approximately \$870 million) will be funded through the State Revolving Fund with 20 year maturities at a projected average interest rate of 4.6 percent. This equates to annual financings of \$40-45 million per year through 2013 and then \$25 million per year from 2014-2025. These assumptions may be overly aggressive given that Indiana SRF's total available wastewater lending capacity for all cities in Indiana with populations over 10,000 has been averaging \$50-60 million in recent years. The last 7 years of CAP Grants available to SRF are shown in Figure 6-8. If the city obtains less funding from SRF than is assumed, projected rates will likely increase from current projections.

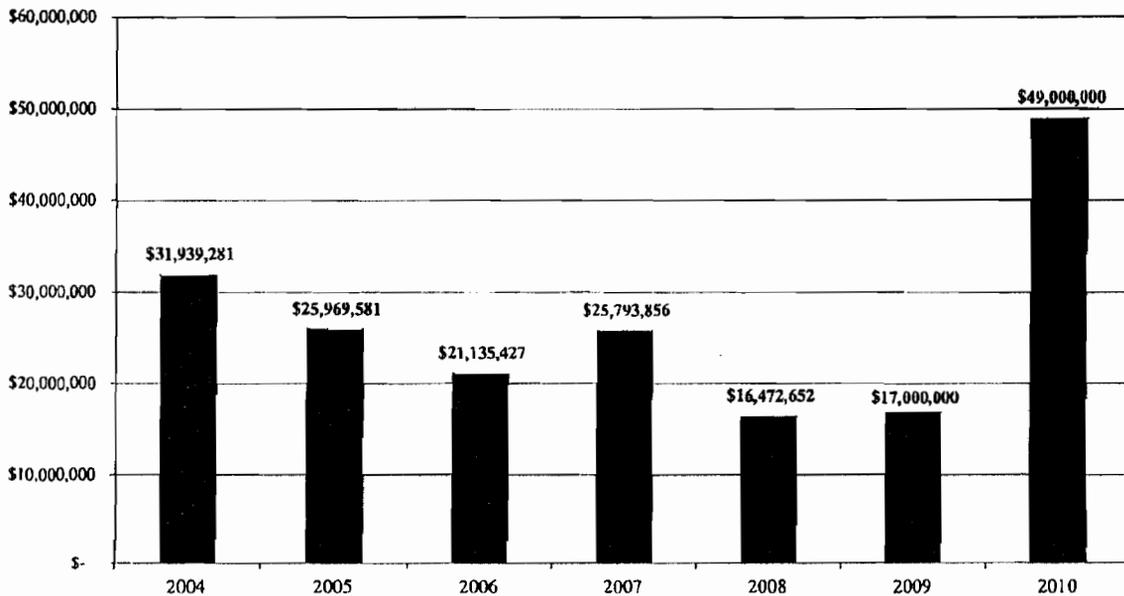
The bulk of the capital program will be funded through 'open market' tax-exempt revenue bonds, with an assumed interest rate of

7.0 percent and 30 year terms. The city is also assuming that over the 20-year implementation period, market interest rates increase from current levels to historic norms, and that its bond ratings remain relatively stable. The projected average rate of 7.0 percent provides a cushion above today's current market rates. The city acknowledges that in the short term this interest rate assumption is conservative. In response to the global economic crisis, current rates are at historically low levels. Given current economic uncertainty, the timing of the recovery is unclear. Over a long term horizon, it is expected that future interest rates will be moving up, not down.

6.3.5 Grant Availability

Although Indianapolis will pursue available grant programs, the city's financial analysis does not rely on significant grants to fund CSO controls. However, where applicable, the city will seek out green initiative grants when the projects meet the guidelines set forth by the Department of Energy and the EPA. The amount of grant funding that may become available is expected to be relatively inconsequential in comparison to the projected capital expenditures for the program.

Figure 6-8
 Waste Water Capitalization Grants for Indiana 2004-2010



Financial Capability Assessment

6.4 U.S. EPA Financial Capability Assessment

U.S. EPA Guidance documents set forth an approach for evaluating financial capability. This section presents the results of that assessment, including replicas of the worksheet/forms contained in the U.S. EPA Guidance. It is important to understand that since the CSO program will principally be funded by revenue bonds and not general obligation bonds, property tax related indicators do not fully reflect the financial capability factors that influence the ability to issue revenue debt.

The assessment is performed in two phases. Phase 1 determines the "Residential Indicator," described earlier, and Phase 2 develops the "Permittee Financial Capability Indicators," which include six indicators in the sub-categories of Debt Indicators, Socioeconomic Indicators, and Financial Management Indicators.

The U.S. EPA guidance document also encourages a community to include additional factors or alternative assessment methods in assessing its financial capability and negotiating the CSO program implementation schedule. Therefore, the city has provided supplemental information below related to population and demographics, employment and income trends, housing statistics, and existing debt burden placed on Indianapolis' residents which provides a more complete picture of financial capacity and resources.

As noted earlier, the city's retail service area is essentially the same as the Indianapolis Consolidated City boundaries shown on Figure 6-4. All data, unless specifically noted, is for the Indianapolis Consolidated City.

6.4.1 Phase One: The Residential Indicator

The city's methodology and projections described in Sections 6.1 through 6.3 set forth the calculations for the residential indicator.

6.4.1.1 Cost Per Household

Cost per household is summarized in Table 6-3.

As described in Section 6.1, the city's projection of the cost per household is a rate-based methodology. That is, the city projects total revenue requirements throughout the LTCP implementation period, estimates future rates and then estimates the cost per household based on per-dwelling unit annual water consumption of 67,200 gallons. This estimate is derived from a five year average of the city's billing records. The city went through an exhaustive study to determine the amount of flow attributable to multifamily apartment households. The results of this analysis were used to develop the weighted average residential flow of 67,200 gallons per year. The determining factors are the revenue requirements and total billable flow. The city is assuming that the volume of billable flow remains relatively flat, with decreases in industrial use offset by modest increases in residential use, consistent with historic patterns of growth in residential customers and that the average consumption per household remains at 67,200 gallons per year. This assumption may be overly aggressive in that consumption dropped sharply in 2009 (11%), following combined rate increases for both water and sewer utilities.

The city has assumed that incomes in the service area will continue to grow at their historical rate, a level below the rate of inflation. The city believes that this is an appropriate assumption given changing demographics and other factors impacting income. In general, Indianapolis has seen a significant shift in income trends over the course of the last decade with both the level and rate of growth for Median Household Income (MHI) falling sharply below state and national levels, as shown in Figure 6-9. These are discussed in more detail in the next section.

Table 6-4 calculates the Consolidated City's Residential Indicator: cost per household as a percentage of median household income. As a result of this process, the city has determined that the approved amended plan at 95/97 percent capture would create a high burden on residents in the Consolidated City, according to U.S. EPA's definitions.

Row	Item	Peak 2005 FCA	Peak 2010 FCA
107	Total Revenue Requirement in Peak Year (2025)	\$ 718,370,000	\$ 678,304,000
	Revenue Requirement	\$ 65,586,000	\$ 127,712,000
	Total Increase	995.31%	431.12%
	Monthly Bill	\$ 9.57	\$ 22.61
	Annual Bill	\$ 114.84	\$ 271.32
109	Projected Annual Cost per Household ("CPH")	\$ 1,258	\$ 1,544

Financial Capability Assessment

Figure 6-9
 Average Annual Rate of Growth of MHI (2000-2008)

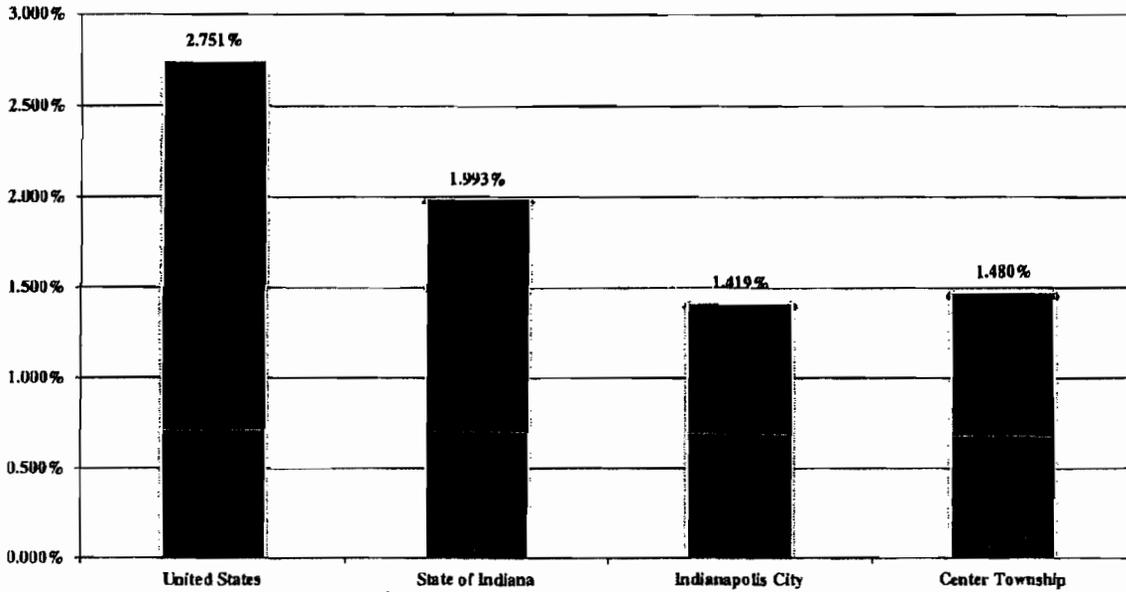


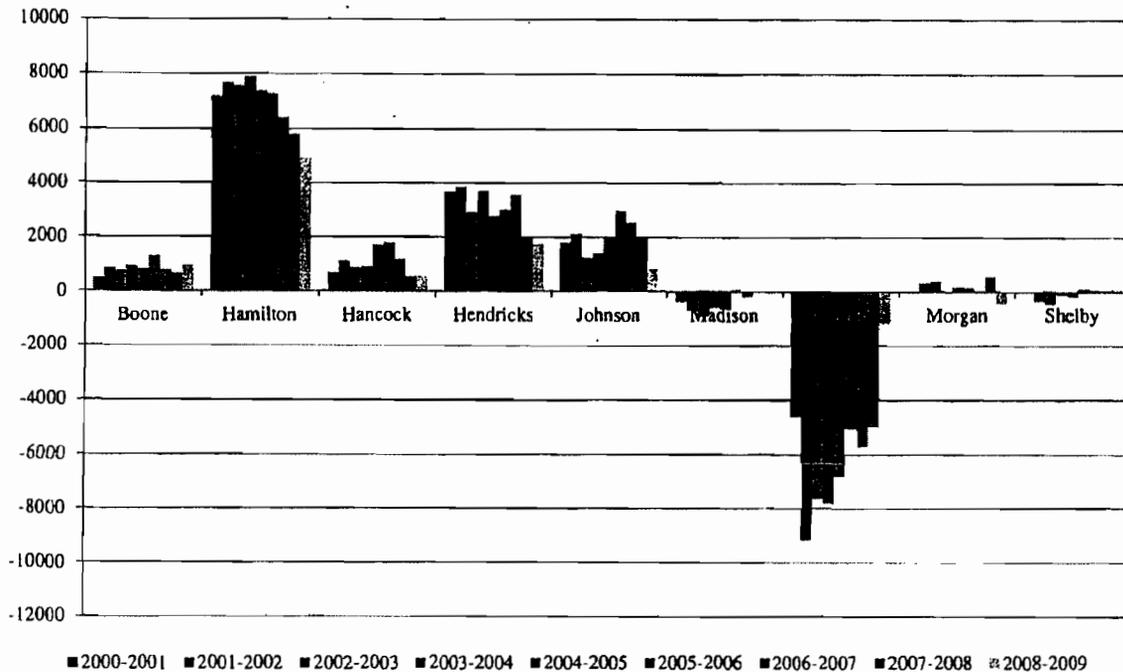
Table 6-4
 Residential Indicator, U.S. EPA Guidance Worksheet 2

Row		2005 Indianapolis Value	2010 Indianapolis Value
		2000	2006-2008 ACS
201	MHI adjustment	\$ 40,051	\$ 44,830
	Original adjustment factor for 2004	1.115	...
	Estimated 2004 MHI	\$ 44,657	...
	Adjustment Factor for 2010	...	1.0286
	Adjusted MHI 2010	...	\$ 46,111
	Analysis year	2025	2025
202	Annual Adjustment factor to 2025	1.58	1.25
203	Adjusted MHI	\$ 70,705	\$ 57,772
204	Annual cost per household (line 109)	\$ 1,258	\$ 1,544
205	Residential indicator		
	CPH as a percentage of adjusted MHI		
	Financial capability score	2	1

Notes: In 2005, the City was assuming an average annual growth of 2.2% from 2004 to 2025 (21 Years). Using EPA methodology the Annual Adjustment "factor" was effectively 1.58. Today, based on historic data, the City assumes average annual growth of 1.42% from 2009-2025 (16 years) for a factor of 1.25

Financial Capability Assessment

Figure 6-10
 Net Migration 2000-2009



6.4.1.2 Sub-Area Consideration

The Consolidated City is the city's retail service area, where it has direct control over the rates charged for wastewater service. Like most urbanized areas in the United States, the city has experienced an outflow of population, income and employment, especially higher income households, to surrounding suburban communities, as represented in Figure 6-10. Marion County has consistently experienced a net out migration over the last decade, with over 79,000 residents moving to the outlying suburban communities since 1996.

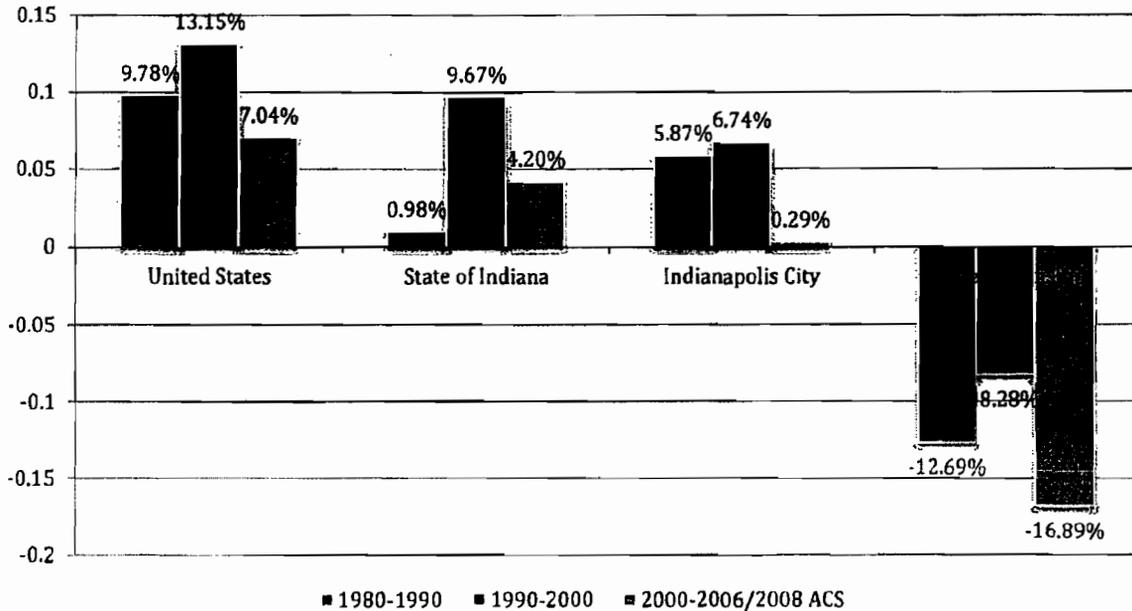
As indicated in Figure 6-11, the gap between national, state and local population growth rates has widened in the last decade. Between 2000-2008, U.S. Census data show that population in the Indianapolis Consolidated City grew at approximately 0.2% percent. This is consistent with Census statistics which show that the number of households also declined marginally (-0.03% per year) between 2000 and 2008. During this same period, the Center Township population declined about 17 percent and

households declined almost 13 percent. While Center Township continues to be the most populous township, with 138,842 people and 18 percent of the city's households, it has lost overall population and households every decade over the last 50 years. According to Census data, Center Township has lost almost two-thirds of its residents (194,509 people) since 1960.

As the chart above graphically illustrates, demographic trends in Center Township and the Consolidated City compare starkly with population growth patterns at both the national and state levels over the last two decades. During the 2000-2008 time period, Indiana's population grew 4.2 percent and the national population grew 7 percent, indicating that the Consolidated City is lagging substantially behind the state as well as the nation in population growth. This trend in population and households is consistent with data evidencing slow growth in the number of new housing permits. Net building permits have dropped every year from 5,969 in 2001 to only 646 in 2009.

Financial Capability Assessment

**Figure 6-11
 Population Growth by Decade**



6.4.1.3 Poverty and Income

Indianapolis is affected by both lower household incomes and higher rates of poverty than national and state averages. Table 6-5 shows that 16.1 percent of the population in Indianapolis lives at or below the poverty level. This compares to a 12.7 percent poverty rate in Indiana and at a national average of 13.2 percent.

On average, Center Township residents have lower incomes and will experience more economic hardship associated with the CSO Program. As shown in Table 6-5 Center Township has the largest proportion of households at or below poverty level in the service area, with over 31.3 percent living in poverty. Of particular concern is the statistic that almost 50% of children in Center Township live in poverty – more than twice the national average. Based on historical trends, the city anticipates that this concentration will continue.

The average median household income in Center Township in 2006-2008 (latest Census data) was \$29,733, compared to \$44,830 for Indianapolis consolidated city, as shown in Table 6-5. The cost per household divided by the lower MHI yields a higher peak year Residential Indicator for Center Township: 3.98 percent vs. 2.67 percent for the Consolidated City. This places residents in Center Township in the high burden category. Disparities in both the level of Household Income and historic rates of growth for the Permittee are more fully discussed in Section 6.4.2.2.2 "Household Income."

6.4.1.4 Center Township

As previously mentioned, Center Township remains the most populous and the poorest township in the service area, and its ratepayers face a higher financial burden over the life of the LTCP. Center Township is expected to reach the "high burden" category for the residential indicator as soon as 2016, due largely to substantially lower household incomes and sluggish growth in median household income (1.48% per year since 2000.) Slow growth has widened the gap between local and national MHI: in the 2006/2008 ACS, MHI in Center Township was just 57% of national MHI.

Along with slowing growth in MHI, Center Township has seen a decline in population and households every decade since 1960. Center Township's population has declined over 33% since 1980, and by almost 17% in just the last decade. The number of households also declined over 18% since 1990 and over 13% in the last decade. One third of the remaining population lives at or below the poverty level.

A declining population, combined with slowing MHI growth suggests that future rate increases associated with the LTCP will place a much higher burden on the residents of Center Township.

Financial Capability Assessment

**Table 6-5
 Median Household Income and the Poverty Level**

	Households: Median Household Income in 2000	Households: Median Household Income 2006-2008 ACS	Percent at or Below Poverty Level 2000	Percent at or Below Poverty Level 2006-2008 ACS	Percent of Population Under 18 Living at or Below Poverty 2006-2008 ACS
Center	\$26,435	\$29,733	24.4%	31.3%	49.4%
Decatur	\$45,690	\$50,864	5.9%	12.6%	19.9%
Franklin	\$58,482	\$69,108	3.5%	6.4%	8.2%
Lawrence	\$49,246	\$56,801	8.9%	11.5%	17.2%
Perry	\$42,378	\$49,393	6.9%	11.4%	16.8%
Pike	\$47,250	\$50,355	7.0%	12.7%	17.2%
Warren	\$39,672	\$42,923	8.9%	15.5%	21.3%
Washington	\$47,079	\$50,391	7.9%	10.6%	14.1%
Wayne	\$37,554	\$39,884	11.4%	17.4%	26.0%
Indianapolis City	\$40,051	\$44,830	11.9%	16.1%	23.7%
State of Indiana	\$41,567	\$48,675	9.5%	12.7%	17.7%
U.S.	\$41,994	\$52,175	12.4%	13.2%	18.2%
<i>*Indicates areas exceeding national rates</i>					

6.4.2 Phase Two: Permittee Financial Indicators

In the Phase 2 assessment, financial capability is determined by factors assessing a community's financial health and ability rather than by the residential financial burden estimated in Phase 1. The Phase 2 assessment computes six benchmarks, two in each of the following subcategories:

- Debt Indicators
 - Bond Ratings
 - Overall Net Debt as a Percent of Full Market Property Value,
- Socioeconomic Indicators
 - Unemployment Rate

- Median Household Income and
- Financial Management Indicators
 - Property Tax Revenue Collection Rate
 - Property Tax Revenues as a Percent of Full Market Property Value.

Figure 6-12 shows U.S. EPA Financial Capability Benchmarks used to evaluate the six indicators. The benchmarks are shown in the left-hand column. A value of "3", "2", or "1" is assigned to a benchmark whose value assessments are "strong," "mid-range," or "weak," respectively.

**Figure 6-12
 Permittee Financial Capability Indicator Criteria, U.S. EPA Guidance**

Indicator	Strong (3)	Mid-Range (2)	Weak (1)
Bond Rating	AAA-A (S&P) or Aaa-A (MIS)	BBB-A (S&P) or Baa-A (MIS)	BB-D (S&P) or Ba-C (MIS)
Net Debt/Property Value	Below 2%	2% - 5%	Above 5%
Unemployment Rate	>1% below National Ave.	±1% of National Ave.	>1% above National Ave.
Median Household Income	>25% above adj. Nat'l MHI	±25% of adj. Nat'l MHI	>25% below adj. Nat'l MHI
Property Tax/Property Value	Below 2%	2% - 4%	Above 4%
Prop. Tax Collection Rate	Above 98%	94% - 98%	Below 94%

Financial Capability Assessment

Table 6-6 Bond Rating, U.S. EPA Worksheet 3			
Row	Item	2005 Value	2010 Value
Most recent General Obligation Bond Rating			
	Date	2005	2010
	Rating agency	Standard & Poor's / Moody's	Standard & Poor's / Moody's / Fitch
301	Rating	AAA / Aaa	AAA / Aaa / AAA
Most recent revenue bonds			
	Date	2004	2009
	Rating agency	S&P	S&P
	Bond insurance	No	No
302	Rating	AA	AA+
	Financial capability score	3	3

6.4.2.1 Debt Indicators

The two Debt Indicators are Bond Rating and the Overall Net Debt as a percent of full market property value in the city's service area.

6.4.2.1.1 Bond Rating

This indicator is intended to address a community's general ability to issue additional debt to finance CSO Controls. However, ratings are not permanent nor are they predictors of future funding capacity, especially for a capital program on the order of magnitude of that contemplated by the Indianapolis LTCP.

After Moody's and Fitch's downgraded the city's General Obligation rating in 2007 from AAA to Aa1/AA+ due to concerns about the city's operating deficit and growing pension liability, it was upgraded in 2010 in connection with the ratings recalibration of many municipal communities as both rating agencies moved to a global and integrated scale for rating both corporate and municipal debt. Standard and Poor's rated the city's Sanitary District revenue bonds AA+ in July of 2009. As of June 1, 2010 the city's Sanitary District has \$473 million in outstanding revenue bonds and SRF loans and another \$54 million in general obligation debt. Clearly, a capital program that relies on almost \$5 billion in debt financings

will substantially increase the debt burden placed on Indianapolis' residents as compared to the current debt burden.

Overall, the outstanding debt of the city is rated to be sound, and this indicator is considered strong by U.S. EPA criteria, as shown in Table 6-6.

6.4.2.1.2 Net Debt

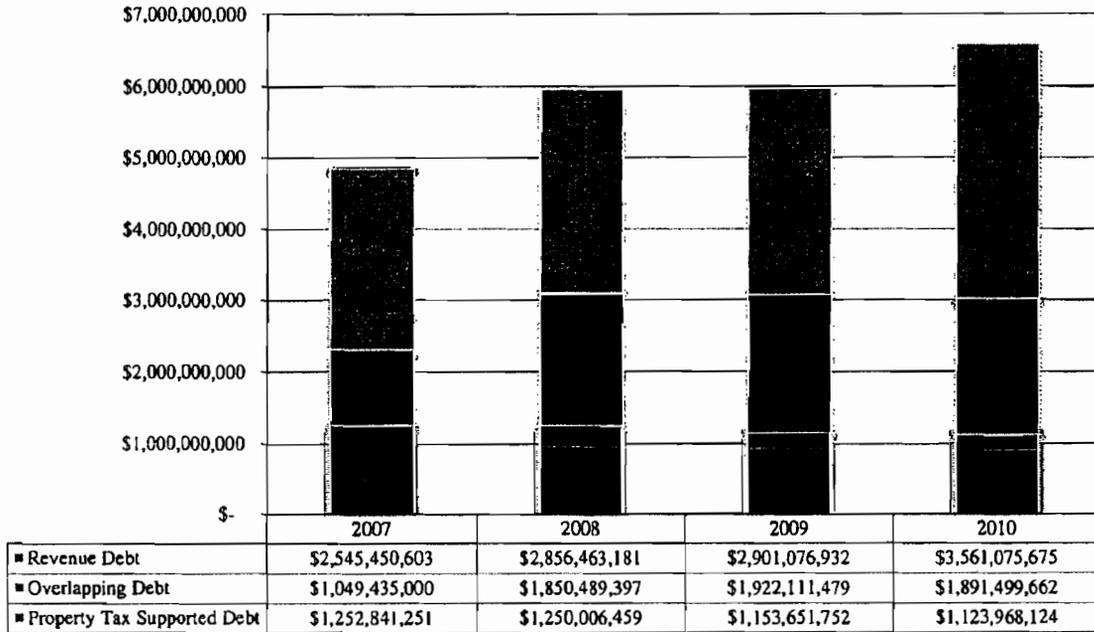
Net debt is the amount of tax-backed bond debt for all taxing units, including the City of Indianapolis, Marion County, townships, libraries, and schools, that are not supported by revenue from user fees. This measure is intended to assess the current debt burden of the permittee.

Because the percent ratio of net debt to property value is in excess of 5 percent, this indicator is considered weak by U.S. EPA criteria, as shown in Table 6-7. In addition to property-tax backed debt, households must pay back substantial revenue debt through user rates and fees. Figure 6-13 shows total outstanding debt by type for the City of Indianapolis, and demonstrates that the per capita debt burden, an important measure of debt capacity, is growing over time, as municipal entities rely on debt financing to pay for required infrastructure and capital improvements.

Table 6-7 Overall Net Debt as a Percent of Full Market Property Value, U.S. EPA Guidance Worksheet 4			
Row	Item	2005 Value	2010 Value
401	Direct net debt (tax-supported debt)	\$ 867,475,000	\$ 1,153,651,752
402	Debt of overlapping entities (Proportionate share of multijurisdictional debt)	\$ 1,439,320,000	\$ 1,922,111,479
403	Overall net debt (tax-supported debt)	\$ 2,306,795,000	\$ 3,075,763,231
404	Market value of property	\$ 39,047,432,000	\$ 36,697,369,707
405	Overall net debt as a percent of full market property value	5.91%	8.38%
	Financial capability score	1	1
2005 numbers are based on data from Moody's Investor Services and appear in Moody's January 19, 2005 report.			
2010 Values:			
Direct net debt is "Total Property Tax Supported Debt, including TIF" per Indianapolis Bond Bank. Debt Outstanding as of December 31, 2009			
Market value of property is the Total Certified Net Assessed Value in 2009, payable in 2010 for Indianapolis Consolidated County, per the Indiana Department of Local Government Finance			

Financial Capability Assessment

Figure 6-13
Outstanding Debt by Type (as of 3/1/2010)



6.4.2.2 Socioeconomic Indicators

The two Socioeconomic Indicators are Unemployment Rate and Household Income. These two criteria are meant to assess the general economic well-being of residential users in the service area.

6.4.2.2.1 Unemployment Rate

The Unemployment Rate indicator is shown in Table 6-8. The Indianapolis average monthly unemployment rate for 2009 was 9.00 percent, according to the Indiana Department of Workforce Development. The national unemployment rate was 9.30 percent and the State of Indiana's was 10.1 percent. Because local unemployment is between one percentage point more than or less

than the national unemployment rate benchmark, this indicator is considered mid-range, according to U.S. EPA criteria.

Table 6-9 shows employment increases and decreases in Indianapolis for various industries between 2000 and the 2006-2008 period. Overall, the city saw a decline of 2.0% in the number of jobs, but the job loss was highly concentrated in the manufacturing, wholesale and retail trades. Table 6-9A illustrates that the city realized both a decline in jobs, as well as real declines in median earnings in 5 out of the 13 sectors (representing over 1/3 of the total number of jobs).

Row	Item	2004 Value	2010
501	Unemployment rate of permittee	5.63%	9.00%
	Source: Indianapolis Consolidated City, Indiana Department of Workforce Development	(Avg. Monthly)	(2009 Annual Average)
	Benchmark:		
503	National unemployment rate	5.50%	9.30%
	Source: Bureau of Labor Statistics	(Avg. Annual)	(2009 Annual Average)
	Comparison of permittee with benchmark	0.13%	-0.30%
	Financial capability score	2	2

Financial Capability Assessment

**Table 6-9
 Employed Persons by Industry for Indianapolis**

Industry	2000	2006-2008 ACS	Percent Increase/ Decrease in Jobs 2000-2006/2008 ACS
Agriculture, forestry, fishing and hunting, and mining	760	622	-18.2%
Construction	24,410	26,504	8.6%
Manufacturing; durable and nondurable goods	53,120	43,915	-17.3%
Wholesale trade	17,208	14,786	-14.1%
Retail trade	46,854	40,657	-13.2%
Transportation	24,819	24,535	-1.1%
Communications and other public utilities	11,206	9,806	-12.5%
Finance; insurance; and real estate	33,733	30,223	-10.4%
Professional; scientific; management; administrative; and waste management services	37,370	46,614	24.7%
Professional and related services; educational services, health services	72,591	76,796	5.8%
Entertainment and recreation services, food service	33,662	34,842	3.5%
Other professional and related services	19,898	19,173	-3.6%
Public administration	16,618	15,813	-4.8%
Total	392,249	384,286	-2.0%

**Indicates Percent Increase/Decreases that exceed the overall total decrease of 2%*

**Table 6-9A
 Median Earnings by Industry for Indianapolis**

Industry	2005-2007 ACS	2006-2008 ACS
Agriculture, forestry, fishing and hunting, and mining	\$26,181	\$24,792
Construction	\$32,210	\$32,491
Manufacturing; nondurable goods	\$40,627	\$40,110
Wholesale trade	\$35,546	\$35,031
Retail trade	\$21,784	\$21,702
Transportation, warehousing and utilities	\$33,593	\$33,583
Information	\$38,950	\$39,944
Finance; insurance; and real estate	\$37,284	\$39,846
Professional; scientific; management; administrative; and waste management services	\$32,925	\$35,050
Professional and related services; educational services, health services	\$31,495	\$32,136
Entertainment and recreation services, food service	\$16,395	\$16,661
Other services except public administration	\$23,940	\$25,452
Public administration	\$39,835	\$41,818

**Saw real decline in wages, representing 32.4% of jobs.*

Financial Capability Assessment

6.4.2.2.2 Household Income

The Household Income indicator is related to the Residential Indicator in that both consider MHI. While the Residential Indicator compares annual cost per household as a percentage of MHI, the Household Income indicator compares the local MHI with the national MHI as a benchmark measurement of relative wealth or poverty as of the date of the General Census. Both MHI calculations are adjusted to 2025 numbers, based on historic growth rates.

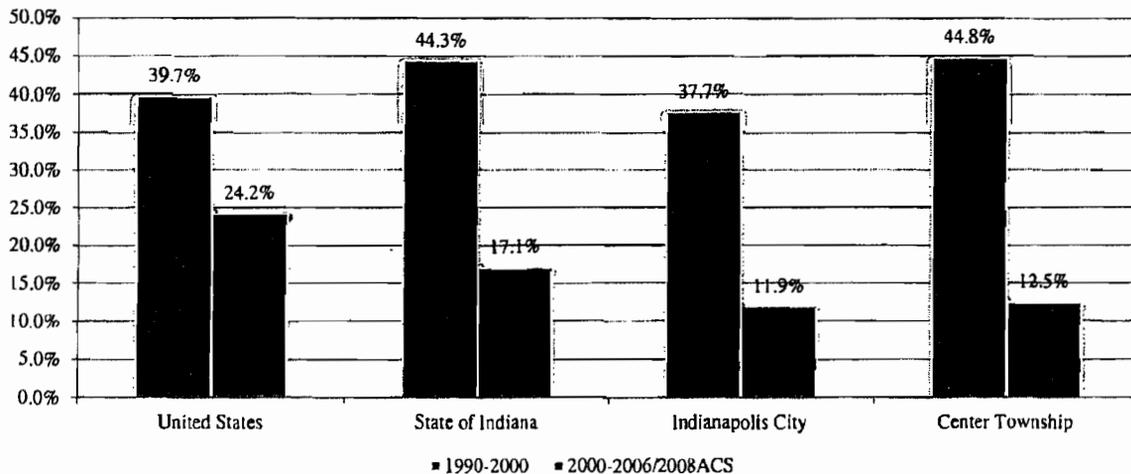
As shown in Figure 6-14, Indianapolis has seen a dramatic change in the rate of growth for household income in the last decade. Impacted by the loss of high wage manufacturing employment, MHI trends have changed measurably from prior decades with MHI growth at 11.9% since 2000, as compared to 17.1% for the State and 24.2% at the national level. Although this has been exacerbated by the recent recession, the decline in manufacturing employment is expected to be a long-term trend.

In addition to experiencing lower rates of income growth than the U.S., and Indiana as a whole, Indianapolis has also witnessed an increasing differential in the absolute dollar levels of median household income. As illustrated in Figure 6-15, the gap between national and local MHI over the past two decades has grown from less than a \$1,000 difference in 1990 to over \$7,300 in 2008. Again, this disparity is even more pronounced for Center Township residents.

The MHI shown in Table 6-10 is the same value used in Table 6-4 for the Residential Indicator. National MHI is also adjusted according to the average growth rates as shown in Table 6-10.

Because local MHI is more than 25% below adjusted national MHI, this indicator is judged to be weak and assigned a value of "1" according to the U.S. EPA benchmark criteria.

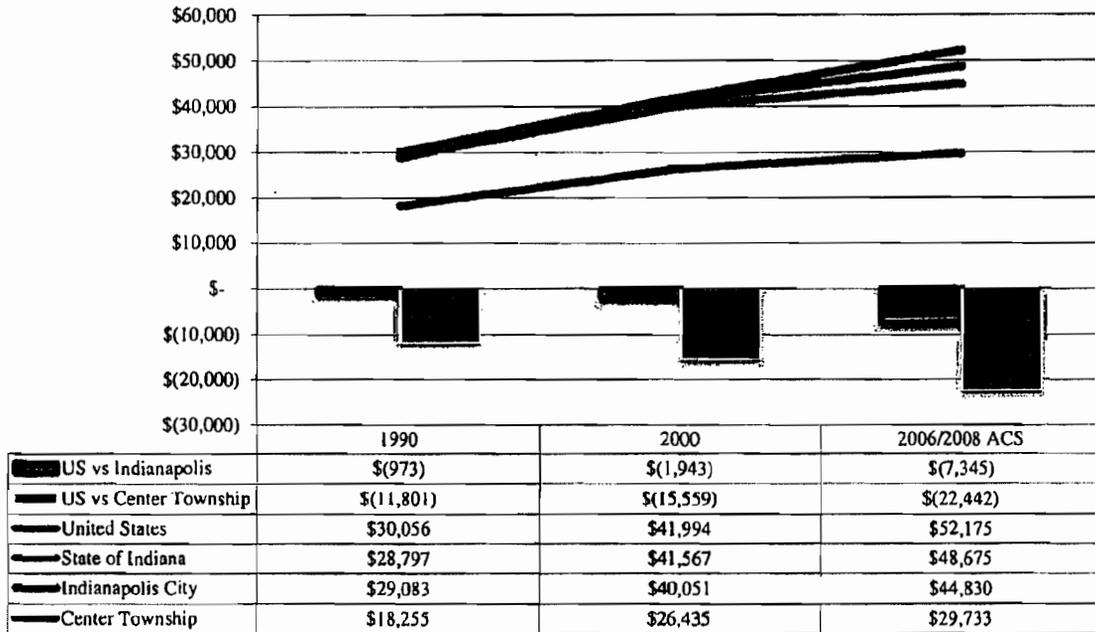
Figure 6-14
 Total Change in Median Household Income by Decade



Row	Item	2005 Value	2010
601	MHI of permittee in peak period (line 203)	\$ 70,705	\$ 57,772
	Benchmark:		
602	2000 Census year national MHI	\$ 41,994	\$41,994
	National MHI: Growth rate 2000-2006/2008ACS	...	2.751%
603	MHI adjustment factor to 2025	1.76	2.02
604	Adjusted national MHI	\$ 73,909	\$ 85,032
	Compare permittee with benchmark	-4.34%	-32.06%
	Financial capability score	2	1

Financial Capability Assessment

Figure 6-15
Trends in Median Household Income



6.4.2.3 Financial Management Indicators

The two Financial Management indicators (Property Tax Revenues and Tax Collection Efficiency) are meant to evaluate the permittee's overall financial operations. Property tax revenues are collected by multiple taxing jurisdictions for residents within the consolidated city, including the City of Indianapolis, Marion County, the libraries, Marion County Health and Hospital Corporation, the townships, and the school districts.

6.4.2.3.1 Property Tax Revenues as Percent of Full Market Value

In the city's service area, property tax revenues collected in the 2009 fiscal period were approximately \$959 million. Property values shown in Table 6-11 are about \$36.7 billion. This information was obtained from the Marion County Auditor's Office, based on the Certified Assessed Valuations provided by the Indiana Department of Local Government Finance.

The calculated property tax revenue indicator for the city's service area is between 2% and 4%, suggesting a mid-range local financial capability under the U.S. EPA criteria.

In December 1998, the Indiana Supreme Court ruled that the State's method of property tax assessment was unconstitutional and required that the State implement a more market-based approach to valuation. The new rules for assessment were implemented in 2003, resulting in a substantial shift in tax burden from business to residential taxpayers.

In 2002, the Indiana General Assembly adopted a significant tax reform package, including provisions to phase out certain business personal property taxes, place caps on certain local tax levies, and institute property tax relief measures for homeowners to mitigate the impact of the new assessment methodology. As a result of the combined impact of reassessment, appeals and the phasing in of property tax caps, the city has seen a real decline in assessed value and a sharp drop in the levy (down -34.1% from 2008) and property tax revenue, further constraining the City's ability to deliver essential services.

Financial Capability Assessment

Table 6-11
Property Tax Revenues as Percent of Full Market Property Value, U.S. EPA Guidance Worksheet 7

Row	Item	2005 Value	2009
701	Full market value of real property (Certified Assessed Value,)	\$ 36,808,011,015	\$ 36,697,369,707
702	Property tax revenue	\$ 1,135,502,840	\$ 958,638,919
703	Property tax revenue as a percentage of full market property value	3.08%	2.61%
	Financial capability score	2	2

6.4.2.3.2 Tax Collection Efficiency

The final U.S. EPA Financial Guidance Phase 2 indicator is the rate of property tax collection. The payable 2009 property tax collection rate presented in Table 6-12 represents the current taxes collected divided by property taxes levied for the Consolidated County. These amounts were provided by the Marion County Auditor's Office. In the County tax collection efficiency is 98.59 percent. Because this figure is above 98 percent, it is indicative of a strong financial capability and receives a score of "3."

However it should be noted that the collection rate for just city taxes was 90.5%, which would have resulted in a score of "2" under EPA criteria.

6.4.2.4 Summary of Phase 2 Indicators

The values and scores of the six Phase 2 Evaluation indicators are compared in Table 6-13. Overall, the unweighted average score for the Phase 2 Evaluation is 2.00, a decline from 2005 levels which reflects declining MHI.

6.4.3 Summary of Financial Capability Indicators

The Phase 1 Residential Indicator has a value of 2.67 percent of adjusted MHI and the Phase 2 Permittee Financial Capability Indicators have an unweighted average of 2.00, as shown in Table 6-14. These two converge on the Financial Capacity Matrix (Figure 6-16) and indicate a high burden for the service area. Due to the lower MHI in Center Township, residents in this area face an even higher burden.

Table 6-12
Property Tax Revenue Collection Rate, U.S. EPA Guidance Worksheet 8

	Item	2005 Value	2009 Value
801	Property tax revenue collected	\$ 1,135,502,840	\$ 958,638,919
802	Property taxes levied	\$ 1,104,723,892	\$ 972,359,616
803	Property tax revenue collection rate (includes delinquent taxes)	102.79%	98.59%
	Financial capability score	3	3

Table 6-13
Summary of Financial Capability Indicators, U.S. EPA Worksheet 9

Row	Item	2005 Value	2005 Score	2010 Value	2010 Score
901	Bond rating	AAA / Aaa	3	AAA / Aaa / AAA	3
902	Net debt percent of property value	5.91%	1	8.38%	1
903	Unemployment rate compared with national average	0.13%	2	-0.30%	2
904	Median household income compared with national average	-4.34%	1	-32.06%	1
905	Property tax revenue percent of property value	3.08%	2	2.61%	2
906	Property tax revenue collection rate	102.79%	3	98.59%	3
907	Permittee indicator score		2.17		2.00

Financial Capability Assessment

Table 6-14
Financial Capability Matrix Score, U.S. EPA Guidance Worksheet 10

Row	Item	2005 Value	2005 Score	2010 Value	2010 Score
1001	Residential indicator score	1.78%	mid-range	2.67%	High
1002	Permittee financial capability indicators score	2.10	mid-range	2.00	mid-range
1003	Financial capability matrix category		medium burden		high burden

Figure 6-16
Financial Capacity Matrix, U.S. EPA Guidance

Permittee Financial Capability Indicators Score (Socioeconomic, Debt & Financial Indicators)	Residential Indicator (Cost Per Household as a percentage of MHI)		
	Low Burden (below 1.0%)	Mid-Range (between 1.0 and 2.0%)	High (greater than 2.0%)
Weak (below 1.5)	Medium Burden	High Burden	High Burden
Mid-Range (between 1.5 and 2.5)	Low Burden	Medium Burden	High Burden
Strong (above 2.5)	Low Burden	Low Burden	Medium Burden

6.5 Summary

Implementing the long-term control plan will place a substantial financial and economic burden on the residents of Indianapolis. Through 2025 the city's wastewater revenue requirements will increase by approximately 12.4 percent per year, on average. This will significantly impact industrial, commercial and residential sewer rates. The impact on disadvantaged residents in Center Township and those living below the poverty level also must be considered. Based upon U.S. EPA guidance, the residential burden for the retail service area

will reach the high burden category. In Center Township and for people living below poverty, the burden will fall into the high burden category even sooner.

Following U.S. EPA's guidance document, the city is facing a high burden, which is an important factor in the plan's current implementation schedule of 20 years. A more aggressive schedule is impracticable for constructability reasons and would further increase the financial burden on residential customers.

From: Pope, James R. [James.Pope@bakerd.com]
Sent: Friday, October 29, 2010 1:35 PM
To: Levay, Daniel; Hitz-Bradley, Lorraine; UCC Info Mgt; Daniels, Sandy; Cracraft, Michael; pmckiernan@hhclaw.com; Krohne, S.; Allen, Michael E.; Prentice, LaTona; Bette Dodd; tstewart@lewis-kappes.com; Morton, Teresa; jpolk@polk-law.com
Cc: Schlegel, Fred E.; Hatton, Peter L.; Sharrow, Regina M.
Subject: DR-14
Attachments: City of Indpls Responses to Data Request 14.PDF

Dan, here's the City's Response to No. 14

Pope

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PRESS RELEASE

DEPARTMENT OF PUBLIC WORKS

FOR IMMEDIATE RELEASE
JANUARY 8, 2010

Media Contact:

Kit Werbe
Public Information Officer
Indianapolis Department of Public Works
Office: (317) 327-4669



sustainindy

CITY BRINGS SEWER SERVICE TO MORE THAN 1,100 HOMES IN 2009

Septic Tank Elimination Program to bring sewer service to an additional 1,200 homes in 2010

INDIANAPOLIS – Five Indianapolis neighborhoods and more than 1,100 residents are enjoying sanitary sewers thanks to the city's Septic Tank Elimination Program (STEP). In 2009, the Department of Public Works (DPW), through its STEP program, worked to construct sanitary sewers and eliminate septic systems on the city's south and eastside.

"This is one of the most aggressive schedules the city has ever had to eliminate the use of septic systems," said Mayor Greg Ballard. "Failing systems are a health hazard and this is really more of a quality of life issue than anything else."

In 2009, under the direction of Mayor Ballard, DPW re-prioritized planned sewer projects and pushed the schedule forward to eliminate more septic systems than any other time in the city's history. Through STEP, the city anticipates bringing sewers to more than 7,000 homes from 2009 through 2013.

Areas receiving sewers in 2009 included neighborhoods near:

- Eustis Drive and Michigan Street
- Post Road and Rawles Avenue
- Franklin Road and Southeastern Avenue
- Northern Estates
- 10th Street and Mitthoeffer Road

Project costs totaled approximately \$30 million. STEP projects are funded through sanitary sewer user fees. In addition, homeowners pay a one-time connection fee for the construction of city sewers and monthly sewer charges. Project areas received new sanitary sewers, manholes, street resurfacing and incidental drainage improvements.

"We are making progress toward eliminating septic systems, but there are still about 26,000 homes in the city that are serviced by private septic systems," said DPW Director David Sherman. "What people don't always realize is that septic systems eventually fail and when they do, human waste can leach into groundwater, backyards, neighborhood ditches and streams."

(more)

City Highlights 2009 STEP Success/Add 1

Septic systems are linked to high *E. coli* bacteria counts in many neighborhood streams and ditches during dry weather, when children are most likely to play in them. Some septic tank owners get their drinking water from private wells, which can be vulnerable to contamination by *E. coli* bacteria.

In 2010, the city plans to complete six projects and convert close to 1,200 homes from septic systems to the city's sanitary sewer system. In addition, six projects will be in construction in 2010, which will result in the elimination of an additional 1,800 septic systems in 2011.

The STEP program is part of the city's Clean Streams-Healthy Neighborhoods program, which is designed to curb raw sewage overflows into rivers and streams, address chronic flooding, eliminate failing septic tanks and improve quality of life in Indianapolis neighborhoods.

For information on when a STEP project is planned for a particular area, please visit www.indy.gov/STEP or call (317) 327-8314.

Mayor Ballard launched SustainIndy and created the Office of Sustainability in October of 2008. Both represent an innovative enterprise aimed at delivering long-term cost savings to the city, building the local economy, improving our quality of life and enhancing our environmental and public health. Its efforts are designed to aggressively move Indianapolis forward in making it one of the most sustainable cities in the Midwest. For more information, visit www.sustainindy.org.



Eustis/Michigan STEP Project

###

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
Fifteenth Set of Data Requests

GENERAL OBJECTIONS

1. The responses below are made solely for the purpose of this proceeding, and are not to be used in any manner in connection with any other proceeding or otherwise.

2. Any response to a Data Request set forth below is subject to all objections as to competence, relevance, materiality and admissibility, and any and all other objections on any applicable grounds, all of which objections and grounds are expressly reserved and may be interposed at the time of the evidentiary hearing in this matter.

3. Inadvertent identification or production of privileged writings or information is not a waiver of any applicable privilege. Production of writings or information does not waive any objection, including, but not limited to, relevancy to the admission of such writings in evidence.

4. Citizens Energy Group ("Citizens") and CWA Authority, Inc. ("Authority") object to the extent any Data Request seeks disclosure of documents constituting, evidencing or reflecting confidential communications between Citizens and/or the Authority and their attorneys or documents that are otherwise protected from disclosure by the attorney-client privilege or any other applicable privilege. Citizens and the Authority may produce responsive documents without waiving the foregoing objection.

5. Citizens and the Authority object to the extent the Data Requests seek information or documents which are neither relevant nor material to, or are outside the

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
Fifteenth Set of Data Requests

scope of, the subject-matter involved in this proceeding, and which are not reasonably calculated to lead to the discovery of admissible evidence.

6. Citizens and the Authority object to the Data Requests to the extent they purport to impose any obligation, including but not limited to an obligation to supplement responses, that is different from or additional to the obligations imposed under the Commission's rules and the Indiana Rules of Trial Procedure.

7. Citizens and the Authority object to the Data Requests to the extent they do not adequately describe the information requested or are otherwise overly broad and unduly burdensome. Citizens and the Authority will conduct a reasonable search of their records where responsive information may be found without undue burden and will produce such documents that are not subject to privilege or other objection.

8. Citizens and the Authority object to the Data Requests to the extent they are not limited to any stated period of time or specify a period of time that is longer than is relevant to this proceeding or is otherwise overly broad and unduly burdensome.

9. Citizens and the Authority object to the Data Requests to the extent they request Citizens or the Authority to perform a study, conduct an analysis or otherwise prepare information that does not currently exist.

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
Fifteenth Set of Data Requests

DATA REQUESTS

DATA REQUEST NO. 1: On page 21 of the Petitioner's Exhibit CBL-7, Asset Purchase Agreement (wastewater utility), Section 2.04(d) it states the following:

"Purchaser shall finance, construct, implement and complete the Septic Tank Elimination Projects ("STEP") set forth in Schedule 2.04(d) upon the terms and in the timeframe established therein. At Closing, Sellers shall deliver by wire transfer from the Sanitary District's Sanitation General Fund (also known as the Sanitation Liquid Waste Fund) Four Million Seven Hundred Thousand Dollars (\$4,700,000) to compensate Purchaser for STEP Obligations under this subparagraph (d)."

Please answer the following questions regarding the STEP Projects:

- a) Please provide an estimated cost to complete each STEP Project listed in Schedule 2.04(d).
- b) Please provide the total estimated cost to complete all of the STEP Projects listed in Schedule 2.04(d).
- c) Please provide an estimated completion date for each STEP Project listed in Schedule 2.04(d).
- d) Please estimate the number of failing septic tanks that will be eliminated after the completion of all the STEP Projects listed in Schedule 2.04(d).
- e) Please estimate the number of failing septic tanks will not be eliminated by the completion of all the STEP Projects listed in Schedule 2.04(d).
- f) Please state the estimated cost of eliminating the remaining failing septic systems.
- g) For all failing septic systems not eliminated by the completion of the STEP Projects listed in Schedule 2.04(d), please state what entity (i.e. the City of Indianapolis, CWA Authority, CEG) will be responsible for the cost of eliminating the failing septic systems after the STEP Projects listed in Schedule 2.04(d) are complete. Please state the specific authority with reference to the specific provision establishing the responsible entity. If not already included in Petitioner's case, please provide a copy of the authority establishing the responsibility of the entity.

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
Fifteenth Set of Data Requests

- h) For the preceding response, please explain why the entity identified as being responsible for the cost of eliminating the failing septic systems after the STEP Projects listed in Schedule 2.04(d) are complete
- i) Excluding the \$4.7 million from the Sanitary District's Sanitation General Fund, how does CWA Authority plan to fund the completion of the STEP Projects identified in Schedule 2.04(d)?

RESPONSE:

(a) Please see the City's response Data Request No. 14-1(a).

(b) Please see the City's response Data Request No. 14-1 (b).

(c) Please see the City's response Data Request No. 14-1(c).

(d) Please see the City's response Data Request No. 14-1 (d).

(e) Please see the City's response Data Request No. 14-1(e).

(f) Please see the City's response Data Request No. 14-1 (f).

(g) The Asset Purchase Agreement for the wastewater system establishes that CWA Authority will be responsible for the completion of the control measures required pursuant to the terms of the Consent Decree, and incorporated Long Term Control Plan. See Section 2.04(b) of the Asset Purchase Agreement, which provides that "[n]otwithstanding the terms of the Consent Decree indicating that a transfer or sale of the System will not relieve the City from its obligations under the Consent Decree, Purchase shall assume the City's obligations under the Consent Decree. . . ." To the extent septic systems are not eliminated by the completion of the STEP Projects listed in Schedule 2.04(d), if additional STEP projects are deemed necessary considered within the context of the system's many clean water infrastructure needs to meet the requirements of the Consent Decree and the Long Term Control Plan and these septic systems are included in any such determination, CWA Authority will be responsible for completing those projects per the Asset Purchase Agreement.

(h) If the request is asking why any entity would be responsible for eliminating failing septic systems after the STEP Projects listed in Schedule 2.04(d) are complete, see the response to subpart (g) above. In general, if the completion of additional STEP projects beyond those set forth in Schedule 2.04(d) are deemed necessary to meet the requirements of the Consent Decree and the Long Term Control Plan, the Authority would be responsible for completing those projects.

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
Fifteenth Set of Data Requests

(i) CWA will fund completion of the STEP Projects identified in Schedule 2.04 (d) through a combination of unexpended State Revolving Fund and Open Market bond proceeds obtained from the City at closing and new debt issuances. See Petitioner's Exhibit JRB-1, lines 13 and 14. Note that lines 13 and 14 encompass capital projects mandated by the Consent Decree, STEP projects and capital projects not mandated by the Consent Decree.

WITNESS: James O. Dillard, John Brehm

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
Fifteenth Set of Data Requests

DATA REQUEST NO. 2: In Exhibit AWM-1, the City of Indianapolis, Long Term Control Plan Report – September 2006, page 6-2, Table 6-1, identifies the Capital Improvement Project (CIP) Capital Costs by Program (i.e. Long Term Control Plan, Wastewater Improvements CIP, and Septic Tank Elimination Program). Please answer the following questions regarding Table 6-1:

- a) If the wastewater utility Asset Purchase Agreement is approved by the IURC, what entity (i.e. the City of Indianapolis, CWA Authority, CEG) will be responsible for paying for the CIP Capital Costs identified in Table 6-1 of the Long Term Control Plan?
- b) If the wastewater utility Asset Purchase Agreement is approved by the IURC, what entity will be responsible for paying for the Wastewater Improvements costs identified in Table 6-1 of the Long Term Control Plan?
- c) If the wastewater utility Asset Purchase Agreement is approved by the IURC, what entity will be responsible for paying for the Septic Tank Elimination Program costs identified in Table 6-1 of the Long Term Control Plan?

RESPONSE:

- a) If the wastewater utility Asset Purchase Agreement is approved by the IURC, CWA Authority will be responsible for paying all costs for Projects associated with the Long Term Control Plan.
- b) If the wastewater utility Asset Purchase Agreement is approved by the IURC, CWA Authority will be responsible for making or overseeing all capital improvements deemed necessary to the wastewater system and funding those improvements.
- c) If the wastewater utility Asset Purchase Agreement is approved by the IURC, CWA Authority will be responsible for paying for any costs associated with the Septic Tank Elimination Program.

WITNESS:

Ann W. McIver

From: Steve Krohne [skrohne@hhclaw.com]
Sent: Thursday, October 28, 2010 4:39 PM
To: Levay, Daniel; Helmen, Randy; bdodd@lewis-kappes.com; tstewart@lewis-kappes.com; jpolk@polk-law.com; Morton, Terry; Daniels, Sandy; Hitz-Bradley, Lorraine
Cc: Fred.Schlegel@bakerd.com; jim.pope@bakerd.com; Cracraft, Michael; Krohne, S.; Phil McKiernan; Prentice, LaTona; Allen, Michael E.
Subject: Responses to OUCC's 15th Set of Data Requests
Attachments: Responses OUCC DR 15.pdf

Attached are Citizens Energy Group and CWA Authority, Inc.'s responses to the OUCC's 15th Set of Data Requests. Please let me know if you have any difficulties with the file. Also, thank you again Dan for the brief extension.

Thank you,

Steve

Steven W. Krohne
Hackman Hulett & Cracraft, LLP
111 Monument Circle, Suite 3500
Indianapolis, IN 46204-2030
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HACKMAN HULETT & CRACRAFT, LLP

DEC 28 PM 1:11



Citizens Advisory Committee

12/26/2010

Carey Lykins
President & Chief Executive Officer
Citizens Energy Group
2020 North Meridian Street
Indianapolis IN 46202-1306

Re: Eagle Creek Watershed

Dear Mr. Lykins:

The Eagle Creek Park Citizens Advisory Committee, a standing committee of the Eagle Creek Park Foundation, is a volunteer organization established over 35 years ago to provide citizen comment, input and advice to the Park's management, and act as an independent watchdog, regarding Eagle Creek Park and Reservoir.

We have followed the proposed transfer of Indianapolis Water Company to Citizens Energy Group with interest. We are aware that Citizens' mission as a public charitable trust is to serve the interests of the communities it serves. Citizens has a well deserved reputation as an efficient and well run utility company for gas, chilled water and steam service. In the process of adding water utility operations to your business, we strongly request that Citizens maintain, and enhance, the current commitments by the City and its contractor, Veolia Water, to improve the health of the Eagle Creek watershed. Failure to support these efforts would in our opinion be a serious retrograde step.

After the City and Veolia Water assumed responsibility for Indianapolis's drinking water supply, there was a significant improvement in the way reservoir and watershed environmental concerns were approached. The Committee has been especially appreciative of Veolia's constructive, cooperative and proactive efforts to try to deal with the watershed pollution problems and blue-green algae blooms in the reservoir. Although problems remain, much progress has been made, and Veolia's support in terms of expertise, money, and in-kind services has, from our perspective, been invaluable.

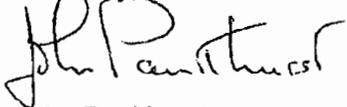
Problems with algal blooms in the reservoir have not only caused serious drinking water taste and odor problems, but have also triggered health advisories regarding recreational use of the reservoir. This year a health advisory necessitated premature closure of the Eagle Creek Park swimming beach for the season on July 24th. The Committee believes that efforts directed toward

ensuring a healthy watershed benefit not only the citizens of Central Indiana, but also the water company, since clean water requires less processing to ensure it is potable.

Citizens enjoys an excellent reputation as a responsible corporate citizen in Central Indiana, and we appreciate that one of Citizen's publicly stated missions is to be "good stewards of the environment." Nevertheless, we would like assurances that the environmentally responsible and constructive attitude displayed by the City and especially Veolia Water will continue after Citizens assumes responsibility for the City's water supply, and that ongoing efforts and research in the watershed will be adequately supported. A clean and healthy watershed benefits all stakeholders.

We look forward to hearing from you.

Sincerely,



John Pankhurst

Chair
Eagle Creek Park Foundation Citizens Advisory Committee

CC: James D. Atterholt, Chairman, Indiana Utility Regulatory Commission
: A. David Stippler, Indiana Utility Consumer Counselor ✓

**TESTIMONY OF OUCC WITNESS EDWARD R. KAUFMAN, CRRRA
CAUSE NO. 43936
CITIZENS ENERGY GROUP, ET AL.**

I. INTRODUCTION

1 **Q: Please state your name and business address.**

2 A: My name is Edward R. Kaufman, and my business address is 115 West
3 Washington Street, Suite 1500 South, Indianapolis, Indiana 46204.

4 **Q: By whom are you employed and in what capacity?**

5 A: I am employed by the Indiana Office of Utility Consumer Counselor ("OUCC")
6 as a Senior Analyst.

7 **Q: Please describe your educational background and experience.**

8 A: I graduated from Bentley College in Boston, Massachusetts with a Bachelor's
9 degree in Economics/Finance and an Associate degree in Accounting. Before
10 attending graduate school, I worked as an escheatable property accountant at State
11 Street Bank and Trust Company in Boston, Massachusetts. I was awarded a
12 graduate fellowship to attend Purdue University where I earned a Master's of
13 Science degree in Management with a finance concentration.

14 I was hired as a Utility Analyst in the Economics and Finance Division of
15 the OUCC in October 1990. My primary areas of responsibility have been in
16 utility finance, utility cost of capital and regulatory policy. I have worked on a
17 range of utilities including natural gas, electric, water and wastewater. I was
18 promoted to Principal Utility Analyst in August 1993 and to Assistant Chief of
19 Economics and Finance in July 1994. As part of an agency-wide reorganization

1 in July 1999, my position was reclassified as the Lead Financial Analyst within
2 the Rates/Water/Sewer Division. In October, 2005 I was promoted to Assistant
3 Director of the Water/Wastewater Division. I have participated in numerous
4 conferences and seminars regarding utility regulation and financial issues. I have
5 been awarded the professional designation of Certified Rate of Return Analyst
6 ("CRRA"). This designation is awarded based upon experience and the successful
7 completion of a written examination.

8 **Q: What is the purpose of your testimony?**

9 A: The purpose of my testimony is to describe various aspects of the proposed
10 transactions (hereinafter "proposal" or "proposed transaction"), identify concerns
11 about certain aspects of the proposal and make recommendations that will
12 advance the public interest to be served by the proposal. Generally, my discussion
13 and recommendations are focused on the financial aspects of Joint Petitioners'
14 requests.

15 More specifically, I provide an overview of why the proposed transaction
16 is unlike any proposed acquisition I have reviewed in my 20+ years with the
17 OUCC and why it is so difficult to evaluate. I also discuss the financial ability of
18 Citizens Energy Group ("CEG") and CWA Authority, Inc. ("Authority") to own
19 and operate the Indianapolis Water and Wastewater utilities. Next, I discuss the
20 settlement agreements regarding the Veolia Water Indianapolis, LLC ("Veolia")
21 and United Water Service Indiana, LLC ("United") operating contracts.

1 Next, I discuss the achievable cost savings as illustrated in the Booz and
2 Company report included in Mr. Flaherty's testimony and recommend items that
3 should be included in reports that CEG develops to document its achieved
4 savings. My testimony also discusses Joint Petitioners' estimated plant valuations
5 of the City's water and wastewater utilities. Then I express concerns with
6 valuation methods used by Mr. Offutt and Mr. Lane.

7 Both the Water and Wastewater asset purchase agreements contain
8 provisions that if the utilities are sold back to the City they will be sold at fair
9 market value. My testimony expresses my concerns regarding these provisions in
10 the asset purchase agreements. I then explain how the proposed acquisition
11 contains a potential acquisition adjustment.

12 My testimony also discusses the Authority's proposed environmental
13 compliance plan recovery mechanism. I then explain the OUCC's concerns with
14 the Authority's proposal and propose a more specific environmental compliance
15 plan recovery mechanism.

16 As part of its Petition, Joint Petitioners seek to include in future rates a
17 specified level of payments in lieu of taxes ("PILOT"). This section of my
18 testimony discusses the Authority's proposal to include a specified level of
19 PILOT payments in future rates and the OUCC's concerns with the Authority's
20 proposal. Next, I discuss concerns about how language in the asset purchase
21 agreements may influence future ratemaking treatment. I also explain how an
22 equity investment made by CEG would lead to lower water and/or wastewater

1 rates. I express concerns that CEG may treat systems located outside Marion
2 County differently than those inside Marion County.

3 Mr. Brehm proposes that the Indiana Utility Regulatory Commission
4 ("Commission") include language in its Final Order that will provide confidence
5 to the bond rating agencies regarding financial integrity. In this section I provide
6 proposed language intended to provide confidence to bond rating agencies that
7 CEG Water and CWA Authority will maintain their financial integrity. This
8 section of my testimony also responds to Mr. Brehm's statement that the
9 Authority may need to propose a future test year in future rate cases. Finally, I
10 discuss how a final order in Indianapolis Department of Water's ("DOW")
11 pending rate case may influence the OUCC's recommendations in this case.

12 **Q: Please list the sections of your testimony**

13 **A:** My testimony is organized into the following sections:

14 **I. INTRODUCTION (p.1)**

15 **II. TRANSACTION COMPLEXITY (p. 8)**

16 **III. FINANCIAL ABILITY (p. 10)**

17 **IV. OPERATING CONTRACTS (p. 12)**

18 **V. COST SAVINGS (p. 15)**

19 **VI. PLANT VALUATIONS (p. 17)**

20 **VII. FAIR MARKET VALUE (p. 24)**

21 **VIII. POTENTIAL ACQUISITION ADJUSTMENT (p. 26)**

22 **IX. ENVIRONMENTAL COMPLIANCE PLAN RECOVERY**
23 **MECHANISM (p. 27)**

1 **X. PILOT PAYMENTS (p. 36)**

2 **XI ASSET PURCHASE AGREEMENTS (p. 38)**

3 **XII. EQUITY INVESTMENT (p. 41)**

4 **XIII. SYSTEMS OUTSIDE OF MARION COUNTY (p. 41)**

5 **XIV. ORDER LANGUAGE (p. 42)**

6 **XV. IURC ORDER IN CAUSE No. 43645 (p. 43)**

7 **XVI. RECOMMENDATIONS (p. 45)**

8 **Q: Can you describe generally the OUCC's position with respect to the**
9 **proposed acquisition by CEG of the water and wastewater utilities?**

10 **A:** Yes. As discussed in OUCC witness Scott Bell's testimony, although the OUCC
11 does not agree with every aspect of the approvals requested by CEG, the OUCC
12 does not oppose CEG's proposed acquisition of the Water and Wastewater assets.
13 The recommendations made by the OUCC are proposed with the goal of making
14 the transaction as transparent as possible and to develop a framework that makes
15 it more likely ratepayers will receive safe, adequate and reliable service at a
16 reasonable price on an ongoing basis. This is done generally through
17 recommendations that promote the retention of Commission oversight, which
18 CEG and the City generally acknowledge is crucial to the proposed acquisition
19 being in the public interest. In addition to seeking Commission authority to
20 complete the proposed transaction, CEG and the Authority are seeking many
21 supplemental authorities that will guide how the Water and Wastewater utilities
22 will be regulated on an ongoing basis, assuming they are acquired by CEG and
23 the Authority. As discussed in my testimony and throughout the testimony of

1 other OUCC witnesses, we are concerned that some of the supplemental
2 approvals requested by Joint Petitioners in this cause are either unclear or may be
3 detrimental to ratepayers, and that either should not be approved or at least not at
4 this time. In this regard, my testimony generally focuses on matters described as
5 financial as opposed to operational or technical.

6 **Q: Have you previously testified before the Commission?**

7 A: Yes. I testified before the Commission in a number of different cases and on a
8 number of issues. I testified in cases involving water, wastewater,
9 telecommunication, natural gas and electric utilities. While my primary areas of
10 responsibility have been in cost of equity, utility financing, fair value, utility
11 valuation and regulatory policy, I also provided testimony on trackers, guaranteed
12 performance contracts, declining consumption adjustments and other various
13 issues.

14 **Q: Please describe the review and analysis you conducted in order to prepare**
15 **your testimony.**

16 A: Because I filed testimony and was actively involved in the City's emergency and
17 general water rate case (Cause No. 43645), I am generally familiar with the
18 financial condition of the City's water utility and aspects of its operations that
19 affect rates. Next, I have been generally following the activity in this proposed
20 transaction starting with the City's Request for Expression of Interest ("REI").
21 For instance, I reviewed the Memorandum of Understanding ("MOU") reached
22 between the City and CEG. On May 26, 2010, along with other OUCC staff, I
23 met with representatives of CEG to discuss the MOU. I attended a public meeting
24 held by the City and CEG on April 13, 2010. I also attended the Indianapolis City

1 Council Utility Transfer Oversight Committee meeting on July 19, 2010 and the
2 Indianapolis City County Council meeting on July 26, 2010. To prepare my
3 testimony, I reviewed the petition, testimony and workpapers filed in this cause. I
4 reviewed Joint Petitioners' responses to the OUCC's extensive discovery. I
5 attended the Commission hearings in this cause that took place on December 6-8,
6 10 & 13, 2010. On December 20, 2010, I attended a meeting with CEG witness
7 Thomas Flaherty and other representatives of CEG. I visited CEG's office on
8 December 30, 2010 to review various documents that had been requested in
9 OUCC discovery. I attended the public field hearing held on January 5, 2011.
10 Finally, I met with other members of the case team on many occasions to discuss
11 issues in this Cause.

12 **Q: Please describe the attachments included with your testimony.**

13 A: My testimony includes six attachments:

14 Attachment ERK-1 consists of a copy of Table 3-5, Summary of Value, Debt and
15 Equity from the appraisal attached to Mr. Lane's testimony.

16 Attachment ERK-2 is CEG's response and attachment to OUCC data request
17 question 5-23.

18 Attachment ERK-3 is CEG's response to OUCC data request question 12-15.

19 Attachment ERK-4 is a copy of Exhibit A from S.O. No. 5 2010, PILOT Payment
20 Schedule attached to Mr. Cotterill's testimony.

21 Attachment ERK-5 is the City's response to OUCC data request question 18-1.

22 Attachment ERK-6 is CEG's response to OUCC data request questions 1-1, 1-2
23 and 1-3.

II. TRANSACTION COMPLEXITY

1 **Q: Why is this case so complex?**

2 A: The Petition identifies nineteen (19) distinct requests for relief (labeled (a)
3 through (s), including some with sub-parts) that Joint Petitioners are seeking in
4 this Cause. For instance, Item (a) requests that the Commission approve the
5 Water System Agreements as well as the transactions contemplated therein. Both
6 the water and wastewater asset purchase agreements are complex documents that
7 contain requests for future ratemaking treatment that, if approved, will influence
8 how the water and wastewater utilities will be regulated for decades.

9 This case involves the merger of a water and wastewater utility into the
10 CEG family of companies, which includes both regulated (natural gas, steam,
11 etc.) and non-regulated (Proliance gas marketer, chilled water, etc.) entities. This
12 wastewater utility has never been regulated nor had its rates reviewed by the
13 Commission or OUCC. Various legal issues will need to be addressed, such as
14 whether the Commission can guarantee future PILOT payments based on
15 estimates instead of appraised value, and whether the Commission has authority
16 to regulate a municipal sewer. CEG's unique status as a public trust adds further
17 complexity to this case. In addition to seeking authority to transfer the City's
18 water and wastewater assets to CEG, this proceeding has elements of different
19 types of cases, including issues related to rates, mergers, financing for multiple
20 initiatives, a request for a certificate of territorial authority ("CTA"), and a request
21 for an Alternative Regulatory Plan ("ARP"). In addition, while CEG is proposing
22 to purchase two established utilities, this case involves complicated issues that

1 would typically be addressed in a proceeding establishing a start-up utility. For
2 example, CEG Water and the Authority's proposal to recover in future rates the
3 debt-service on the issuance of debt to fund start-up cash is an example of an
4 issue that is not typically reviewed when an established utility is purchased.

5 Next, the third-party operating agreements and subsequent termination of
6 the Veolia contract adds further complexity to this case. Finally, CEG has not yet
7 decided how it intends to resolve certain of the operational and financial aspects
8 of the proposed transaction. This was highlighted during the hearing on Joint
9 Petitioners' case-in-chief, where multiple CEG witnesses on cross-examination
10 stated that particular decisions affecting the future operations had not yet been
11 made. Thus, the OUCC has been asked to evaluate, and the Commission to
12 approve, aspects of the integration and operations that have not been fully
13 developed.

14 **Q: Have any of Joint Petitioners' witnesses acknowledged the unusual nature of**
15 **this case?**

16 A: Yes. On page 10 of his testimony, CEG witness Mr. Flaherty acknowledged
17 that "[a]ll of these factors, individually and in aggregate, make the proposed
18 combination a very different type of transaction from that normally reviewed by
19 state regulatory agencies."

20 **Q: Are there long-term implications to the approvals sought in this case?**

21 A: Yes. Hypothetically, if revenues/expenses are overstated/understated in rates in a
22 typical rate case, those overstatements/understatements can be reviewed and
23 potentially fixed in the utility's next rate case. Aside from the acquisition itself,
24 many of the requests made in this case are irrevocable, and assuming a worst case

1 scenario, would be difficult, if not impossible to unwind. Decisions made in this
2 case will influence future ratemaking treatment for many years to come.

III. FINANCIAL ABILITY

A. Water Utility

3 **Q: Have Joint Petitioners requested a determination by the Commission that**
4 **CEG has the financial ability to own and operate the water system?**

5 **A:** Yes. In the Verified Joint Petition (See page 18, Subsection (b) of the requested
6 relief), Joint Petitioners have requested a determination that CEG has the financial
7 ability to own and operate the Water System.

8 **Q: Does CEG have the financial capacity to own and operate the DOW?**

9 **A:** It is my understanding that CEG intends to isolate the Water utility into a separate
10 entity so that each utility owned by CEG has to stand on its own. CEG should
11 have the financial capacity to own and operate the DOW. CEG is assuming the
12 debt of the DOW and is not required to make any additional payments to the City.
13 The change in ownership should not materially diminish the water utility's ability
14 to meet its financial obligations.

15 **Q: Do you have any specific concerns about CEG's financial ability to operate**
16 **the DOW?**

17 **A:** Yes. The water utility is and will continue to be highly leveraged. I would have
18 more confidence in CEG's financial ability to operate the DOW if it had provided
19 some equity to the transaction. Had CEG proposed to add some equity to its
20 proposed purchase of the assets of the DOW, the equity would provide a cushion
21 against unexpected expenses or a shortfall in revenues. The use of equity could

1 also reduce the amount of long-term debt, the resulting annual debt service, and
2 subsequently reduce annual revenue requirements.

3 **Q: Do you have any other concerns about CEG's ability to own and operate a**
4 **water utility?**

5 A: Yes. There are several examples in Indiana where energy companies attempted to
6 own and operate a water utility, but exited the industry several years later. The
7 most recent example is RWE's acquisition of American Water Works. After
8 acquiring American Water Works in 2003, RWE sold the company through
9 multiple public stock issuances from 2008 through 2009. NiSource purchased the
10 Indianapolis Water Company and subsequently sold it a few years later. In both
11 cases the new owners were required to invest heavily in new plant to make up for
12 short comings of the prior owners. DQE purchased AquaSource, and
13 subsequently sold it several years later to Aqua America Inc.¹ I am not asserting
14 CEG's proposed acquisitions will suffer a similar fate. However, water utilities
15 have distinct challenges from other utilities and one should not simply assume
16 that experience operating an energy utility translates into the ability to effectively
17 operate a water or wastewater utility.

¹ This quote is from Aqua America, Inc.'s website. "In 2003, the company bought the investor-owned water and wastewater utilities, formerly owned by AquaSource expanding the number of people served by nearly 400,000 with customers in Florida, Texas, Virginia, North Carolina, South Carolina, Indiana and Missouri."

B. Wastewater Utility

1 **Q: Have Joint Petitioners requested a determination by the Commission that**
2 **CEG has the financial ability to own and operate the wastewater system?**

3 **A:** Yes. In the Verified Joint Petition (See page 19, Subsection (i) of the requested
4 relief), Joint Petitioners have requested a determination that CEG has the financial
5 ability to own and operate the Wastewater System.

6 **Q: Does CEG have the financial capacity to own and operate the Indianapolis**
7 **Sanitary District?**

8 **A:** I understand that CEG intends to create a separate trust for the Wastewater utility
9 so that it will stand on its own. CEG should have the financial capacity to own
10 and operate the Indianapolis Sanitary District ("Sanitary District"). In addition to
11 assuming the debt of the Sanitary District, the Authority proposes to issue \$262
12 million in new debt (plus transaction costs) to purchase the assets of the Sanitary
13 District (and additional debt of up to \$90 million plus transaction costs for
14 "working capital"). The change in ownership should not materially diminish the
15 Wastewater utility's ability to meet its financial obligations.

IV. OPERATING CONTRACTS

A. Veolia

16 **Q: The DOW reached a settlement agreement with Veolia and has proposed to**
17 **terminate its operating agreement with Veolia. Should the Commission**
18 **approve the settlement agreement?**

19 **A:** To the extent the settlement agreement requires Commission approval, the OUCC
20 does not oppose the settlement agreement.

B. United

1 **Q: The Authority has requested Commission authority to assume the current**
2 **operating contract with United. Does the OUCC oppose the Authority's**
3 **proposal to assume the current United operating contract?**

4 A: To the extent the Authority requires Commission approval to assume the United
5 operating contract, the OUCC does not oppose the Authority's request to assume
6 the United operating contract. However, if the Authority terminates or revises the
7 operating contract and, to the extent that the Authority is seeking pre-approval of
8 a revised contract, the OUCC does not agree to pre-approve any unseen contract.

9 **Q: Does the OUCC have any other concerns related to the United contract?**

10 A: Yes. While the OUCC is not challenging the Authority's right to assume the
11 United operating contract, the OUCC does not agree at this time that United's
12 charges are reasonable for rate making purposes. Because the Sanitary District
13 has never gone through a Commission rate case, its current rates have not been
14 reviewed in the same detail that would occur in a general rate case. It is most
15 appropriate to review United's charges to the Authority in the operating contract
16 within the context of a full rate case. The OUCC may challenge the future
17 ratemaking treatment of the contract in the Authority's first general rate case.

18 **Q: On January 12th Joint Petitioners provided the OUCC with a two documents**
19 **that modify the operating agreement with United. Has the OUCC had**
20 **sufficient time to review these documents?**

21 A: No. I may need to supplement my testimony once Joint Petitioners officially file
22 these documents with the Commission.

C. Other

1 **Q: Do you have any additional concerns regarding the operating contracts?**

2 A: Yes. As described throughout Joint Petitioners' evidence in this case, anticipated
3 savings by combining the utilities is a key reason to approve this transaction. For
4 example, during cross examination Mr. Lykins stated as follows:

5 The achievement of savings, again, is a central underpinning of
6 this proposal, and we will demonstrate material benefits to all
7 utility customers, and I'm happy to report on that periodically to
8 this body. (Transcript at p. D53 line 22 – D54 line 2).

9 Since CEG's testimony does not discussed the possibility of forming affiliate
10 companies related to the operations of either the water or wastewater utilities, it is
11 reasonable to assume that the potentially achievable savings are based on CEG's
12 current structure. If CEG decided to change the current structure by creating an
13 affiliated for-profit (unregulated) operating company or companies to take over
14 the current operations of the water and/or wastewater utilities (in place of the
15 current operating contracts), that may diminish CEG's ability to achieve the
16 forecasted savings. Because a for-profit company must pay income taxes, earn a
17 profit and does not have access to tax-free debt, it is likely to have a higher cost
18 structure. This higher cost structure would likely diminish CEG's opportunity to
19 achieve the cost savings it testifies are potentially available. Therefore CEG
20 should not be permitted to create a for-profit unregulated company to take over
21 the operations of either the Indianapolis water or wastewater utilities or provide
22 shared services to either the water or wastewater utilities. Moreover, the use of
23 unregulated affiliated companies to operate either or both of the water and

1 wastewater utilities diminishes the OUCC's and the Commission's ability to
2 review future revenue requirements and verify that proposed savings have been
3 achieved. This issue is also discussed by OUCC witness Margaret Stull.

V. COST SAVINGS

A. Review

4 **Q: Did the OUCC analyze the projected cost savings that would occur as a**
5 **result of the proposed acquisition?**

6 A: Yes. The OUCC hired Vantage Energy Consulting, LLC to review Mr. Flaherty's
7 analysis. The OUCC asked Vantage to determine if the anticipated level of
8 savings was realistic and achievable. Vantage provided a written report that
9 documents their findings.

10 **Q: What level of savings does Citizens project?**

11 A: According to Citizens' Witness Thomas Flaherty of Booz & Company, beginning
12 in year 3, the proposed merger may generate \$59.3 million of savings (net
13 synergies) per year. See Joint Petitioners' Ex. TJJ, p. 46 and Joint Petitioners'
14 Ex. TJJ-2.

B. Document Savings

15 **Q: Should CEG be required to document achieved savings for the proposed**
16 **water and wastewater trusts, demonstrate that the achieved savings were a**
17 **result of the transaction and share its analysis with the Commission and**
18 **OUCC?**

19 A: Yes. CEG should be required to document achieved savings for the proposed
20 water and wastewater trusts and demonstrate these savings are attributed to the
21 proposed transaction. As mentioned above, Mr. Lykins indicated during cross

1 examination that he would be happy to report on achieved savings periodically to
2 this body.

3 **Q: What should be provided to the Commission and the OUCC regarding**
4 **future savings?**

5 A: First, any internal reports, analyses or workpapers prepared by CEG or any
6 consultant hired by CEG regarding achieved savings should be provided to both
7 the Commission and the OUCC. The OUCC is not interested in restricting any
8 plans CEG has to develop a process to record and measure achieved savings. We
9 will not propose a comprehensive reporting requirement regarding achieved
10 savings. Instead, the OUCC proposes items that it believes should be included in
11 CEG's process. The transition team should prepare reports at least twice per year
12 over the next 4 years. The report should describe all steps taken to achieve
13 savings. The report should explain both successes and impediments encountered
14 to achieve savings. Joint Petitioners' exhibit TJF-2 lists 10 categories of
15 anticipated savings. The report should list savings by dollar achieved for each
16 category and compare the actual savings to the anticipated savings. The report
17 should also list savings by operating unit (gas, steam, chilled water, water and
18 wastewater). In addition, CEG's report should list all of the costs incurred to
19 achieve savings, including the cost of debt service on loans issued to acquire the
20 wastewater utility (including working capital). Finally, the report should also
21 provide proof that CEG is meeting its minority business enterprise requirements
22 ("MBE") from the asset purchase agreements.

1 **Q: In addition to providing the reports described above, are there additional**
2 **reporting requirements that are appropriate?**

3 A: Yes. It is important that ratepayers actually realize the anticipated savings in
4 lower rates. In future rate cases before the Commission for all CEG entities, each
5 case should include a description of savings achieved from the proposed
6 transaction and show how these achieved savings result in a lower rate increase.

VI. PLANT VALUATIONS

A. Introduction

7 **Q: Please provide a brief introduction of the valuations presented in this Cause.**

8 A: CEG hired J. Perry Offutt of Morgan Stanley & Co. to value the City's water and
9 wastewater assets and to determine if the consideration offered by CEG to the
10 City was fair. His testimony includes a letter and presentation to CEG's Board of
11 Directors. In that letter on page 4, Mr. Offutt opined that "[b]ased on and subject
12 to the foregoing, we are of the opinion on the date hereof that the Consideration to
13 be paid by the Purchasers pursuant to the Purchase Agreements is fair from a
14 financial point of view to Citizens." (Emphasis added.) This opinion was
15 approved by a committee of Morgan Stanley investment banking and other
16 professions in accordance with their customary practices.

17 The City hired Michael G. Lane of R. W. Beck. His testimony includes an
18 appraisal report with tables, appendices and exhibits. On page 4 of his testimony
19 Mr. Lane states that R. W. Beck found as follows:

20 ...the total value of the consideration that the City will receive
21 from the transfer of the waterworks and wastewater systems to
22 Citizens Energy Group falls within the range of value set forth in

1 R. W. Beck's appraisal of these systems and is reasonable from a
2 financial point of view.

3 (Emphasis added.)

4 Both CEG and the City present testimony and analyses that the proposed
5 transaction is fair from their clients' perspective.

B. CEG Witness Perry Offutt

6 **Q: Have you reviewed the presentation included with Mr. Offutt's testimony?**

7 A: Yes. While my testimony does not challenge Mr. Offutt's overall findings, it
8 points out various concerns regarding his analyses.

9 **Q: Please discuss some of your concerns.**

10 A: Mr. Offutt's analyses produced an apparently large range of valuations of the
11 utilities. Even if one disregards the analyses that ignore potential synergies, Mr.
12 Offutt's valuation analyses produced a range of \$1.348 billion to \$2.725 billion
13 (JPO-2, page 10). Such a wide range of estimated valuations does not by itself
14 confirm that the purchase price is fair.

15 Mr. Offutt was required to make several assumptions to complete his
16 valuations of both the water and wastewater utilities. Any changes to these
17 assumptions may influence each utility's value. Mr. Offutt also relied on cost
18 estimates from CEG and estimated cost savings from Booz & Co.² To the extent
19 there are errors or misstatements in CEG's or Booz's analyses, these errors will be
20 incorporated into Mr. Offutt's analysis. Part of Mr. Offutt's valuation analysis
21 also assumed that the DOW will be authorized a rate increase of 28.3% in its

² Mr. Offutt asserted during cross-examination that he did not meet with Mr. Flaherty.

1 pending rate case (Cause No. 43645). Mr. Offutt's valuation analysis further
2 assumed a discount rate or weighted average cost of capital ("WACC") that
3 ranges from 5.25% - 5.75%. To the extent Mr. Offutt's discount rate is
4 understated, it will cause his estimated valuations (that rely on WACC) to be
5 overstated. This could be significant because as discussed later in this section Mr.
6 Lane, who valued the same assets for the City, used a discount rate of 8.15%.

7 **Q: Were you able to estimate the effect a different authorized rate increase in**
8 **the DOW pending rate increase would have on Mr. Offutt's estimated**
9 **valuations?**

10 A: In part, yes. I was able to estimate how a change in the authorized rate increase in
11 the pending water rate case could influence Mr. Offutt's Trading Comparables
12 (with Synergies) analysis. The third line in the Section titled Trading
13 Comparables, p. 10 of Exhibit JPO-2, shows a valuation range of \$1.348 billion to
14 \$1.733 billion. This range is based on a combined EBITDA³ of \$192.56 million
15 and a valuation range of 7.0x – 9.0x. Mr. Offutt multiples EBITDA by 7 and by 9
16 to develop a range of valuations (7.0 * \$192.6 million = \$1.348 billion & 9.0 *
17 \$192.6 million = \$1.733 billion). The \$192.6 million in annual EBITDA is the
18 sum of the 2011 Wastewater EBITDA of \$95.8 million (Ex. JPO-2, page 20) and
19 2011 Water EBITDA of \$96.8 million (Ex. JPO-2, page 21). Next, the 2011
20 Water EBITDA of \$96.8m is based on annual Operating Revenues of \$171.3m
21 which includes an assumed increase in water rates of 28.3%. Assuming that there
22 is a dollar for dollar change in Operating Revenues and EBITDA, a 1.0% point
23 reduction in the anticipated rate increase to 27.3% would reduce Operating

³ EBITDA is Earnings before Interest, Taxes, Depreciation and Amortization.

1 Revenues and EBITDA by approximately \$1.34m⁴. If one uses the midpoint
2 (8.0x) of Mr. Offutt's valuation range, a \$1.34 million reduction in EBITDA
3 reduces the estimated value by approximately \$10.68 million. A five percentage
4 point reduction in authorized water rates of 23.3% subsequently reduces the
5 estimated value of the water utility by approximately \$53.41m.

C. City Witness Michael Lane

6 **Q: Have you reviewed the analyses provided with Mr. Lane's testimony.**

7 A: While my testimony does not challenge Mr. Lane's overall findings, it points out
8 various concerns regarding his analysis.

9 **Q: Please discuss some of your general concerns.**

10 A: Mr. Lane's analyses produced an even wider range of valuations for the City's
11 water and wastewater assets (Table 3-5 – included as Attachment ERK-1)⁵. Even
12 if one disregards the End Net Equity analyses, Mr. Lane's valuations ranged from
13 \$1.234 billion⁶ to \$4.259 billion. As noted above, such a wide range of valuations
14 does not by itself confirm the purchase price is fair. While Mr. Lane rejected the
15 results of his Replacement Cost New Less Depreciation ("RCNLD") analysis, his
16 other analyses still produced a range of \$1.234 billion to \$2.37 billion.

⁴ Operating revenues of \$171.3m with an increase of 28.3%, assumes rates before the increase of approximately \$133.5m. If \$133.5m is then increased by 27.3% it leads to operating revenues of approximately \$169.9m. Thus a 1.0 percentage point lower rate increase reduces both operating revenues and EBITDA by approximately \$1.34m.

⁵ R.W. Beck – Section 3 (Appraisal Analysis).

⁶ On page four of Mr. Lane's Fairness Opinion, he asserts "...R.W. Beck is of the opinion that any offer above Original Cost Less Depreciation (equivalent to net book value) would be reasonable for the Systems." Note that according to Mr. Lane, the combined OCLD value of both systems is \$1.234 million.

1 **Q: Do you have more specific comments regarding the R.W. Beck report?**

2 Yes. While Mr. Lane presented a market approach, that approach may not provide
3 meaningful information to estimate the value of either the water or wastewater
4 assets. At the top of page 3-3, the R. W. Beck report stated that “[t]he market
5 approach is difficult to apply in valuing utility property due to the lack of
6 comparable utility transactions.” Next, as mentioned on page 3-4 of the R.W.
7 Beck appraisal, Mr. Lane’s Discounted Cash Flow (“DCF”) analysis did not
8 include additional revenues that could be realized from the pending water rate
9 increase. While the amount of the increase is disputed, all parties to that cause
10 agreed that some rate increase was needed. It seems inappropriate not to consider
11 any amount of increase in a DCF analysis. Failure to consider any amount of the
12 proposed increase causes a DCF analysis to understate value. Next, part of Mr.
13 Lane’s income approach relied on a cost of equity of 12.31% and a weighted cost
14 of capital of 8.15%. Both Mr. Lane’s proposed cost of equity and capital are too
15 high and, holding all other factors constant, understate the estimated value of the
16 water and wastewater utilities of his income-based analysis.

17 **Q: Please explain your concerns with Mr. Lane’s WACC analysis and**
18 **subsequent CAPM analysis (Exhibit 5).**

19 **A:** Mr. Lane uses a WACC estimate of 8.15%. This weighted cost of capital is based
20 on a cost of equity of 12.31%. There are two significant assumptions that cause
21 the results of Mr. Lane’s capital asset pricing model (“CAPM”) analysis to be
22 overstated. Mr. Lane’s estimated risk premium of 6.35% was obtained directly
23 from Ibbotson’s text titled “Stock Bonds, Bills and Inflation.” This text has been
24 regularly cited by cost of equity witnesses in many rate cases. To calculate a

1 historical risk premium, the Ibbotson text relies exclusively on arithmetic mean
2 returns and bond income returns. In previous rate cases such as Indiana American
3 Water's Cause No. 42520, the Commission rejected both the sole reliance on
4 arithmetic mean returns, as geometric mean returns should also be considered,
5 and the use of bond income returns, as total bond returns should be considered.
6 The failure to consider geometric mean returns and the use of income returns
7 instead of total returns both have the effect of increasing (overstating) the
8 historical risk premium. To the extent that Mr. Lane's risk premium is overstated,
9 the subsequent cost of equity is overstated. All other factors remaining constant,
10 an overstated cost of equity will understate a valuation calculation.

11 Mr. Lane's CAPM analysis also included a 300 basis point size premium
12 (from Duff and Phelps). While Mr. Lane's proposed size premium was not taken
13 from the Ibbotson text, Dr. Ibbotson's text has proposed similar size premiums.
14 The Commission has ruled in numerous causes that regulation helps mitigate the
15 influence of size and that Dr. Ibbotson's size premium does not apply to regulated
16 utilities. The same concept would also apply to the 300 basis point risk premium
17 indicated by Duff and Phelps. As discussed above, the size premium overstates
18 Mr. Lane's estimated cost of equity, which would understate any proposed
19 valuation that relies on his estimated cost of equity.

1 **Q: Do you have any additional concerns with Mr. Lane's income approach?**

2 A: Yes. Page 3-5 of the appraisal discusses four ownership scenarios for the
3 wastewater utility⁷. Mr. Lane titles Scenario 1 the "Regulated Public Option". Of
4 the four scenarios described by Mr. Lane, this option appears to be the one that
5 most closely compares to how the Authority will operate, yet Mr. Lane views this
6 scenario as unlikely. The only scenario that Mr. Lane views as likely is Scenario
7 2. Despite the fact that the purchase agreement requires Commission regulation,
8 Scenario 2 does not assume the Authority will be regulated by the Commission.

D. General Comments

9 **Q: Does challenging the valuations of the water and wastewater assets create a**
10 **dilemma for the OUCC?**

11 A: Yes. The fact that the purchase of the Sanitary District will be funded in part
12 through debt issued by the Authority, which will thereafter be paid for through
13 rates, leads to a potentially frustrating dynamic. If the OUCC found Joint
14 Petitioners had undervalued the assets and that a higher purchase price was
15 warranted, the City could receive more money, but CEG would presumably issue
16 additional debt (which would be included in future rates) and the ratepayers
17 would pay higher rates. On the other hand, if the OUCC were to find that the
18 assets had been overvalued and a lower purchase price is warranted, the City
19 would receive less money for the sale of the utilities and would have less funds to
20 make other infrastructure repairs to the City. That is not to say that the purchase

⁷ Scenario 1 – Regulated Public Option; Scenario 2 – Public Option with 2009 Rate Curve; Scenario 3 – Public Option with 2007 Rate Curve; and Scenario 4 – Regulated IOU Option.

1 price as set forth in Joint Petitioners' proposal is "just right". Rather, this
2 illustrates that when a municipal utility purchase is paid for by the ratepayers, it
3 creates a conundrum where a change in the purchase price in either direction
4 appears to harm ratepayers.

5 **Q: What other general concerns do you have with the proposed valuations of the**
6 **water and wastewater utilities?**

7 A: Both Mr. Offutt and Mr. Lane used a model that relies on income. Assuming the
8 utility does not elect to earn a return, a municipal or not-for-profit utility's rates
9 are not designed to generate a profit. While either may have rates that generates a
10 positive cash flow, EBITDA does not have the same meaning as it does for an
11 investor-owned utility. Municipal utilities are not seeking to maximize or even
12 earn a profit, raising the question as to whether it makes sense to use future profits
13 to estimate the value of a not-for-profit or municipal utility.

VII. FAIR MARKET VALUE

14 **Q: Do you have concerns regarding the Asset Purchase Agreements?**

15 A: Yes. In Section 8.08 subsection (d), page 51 of the Sanitary District Asset
16 Purchase Agreement (page 51), it states that "Purchaser and Citizens agree that in
17 the event of any such sale or disposition the City shall have a right of first refusal
18 to purchase the System at its then fair market value, which shall include
19 provisions for the assumption or full payment of any outstanding bond financings
20 or other interest bearing obligations." Similar language is included in section 8.09
21 subsection (d), page 47, of the Department of Water asset purchase agreement.

1 **Q: Why does this language cause concerns?**

2 A: If CEG sells either or both the Water and Wastewater systems back to the City,
3 the City (and its ratepayers) should not have to pay CEG for the value of any plant
4 or other assets that is paid for by ratepayers. Throughout its written and oral
5 testimony, CEG made it clear that because the Authority and the Water Utility are
6 separate entities, CEG is unable to make any investment from its own funds to
7 acquire either the water or wastewater assets. The debt the Authority will use to
8 acquire the wastewater assets will be paid for by the ratepayers through higher
9 rates. The transaction costs to acquire the utilities will be rolled into future debt
10 issuances, as will proposed working capital (See John Brehm's testimony, p. 7
11 lines 17-19, and p. 33 lines 6-7). Moreover, any plant added to either utility will
12 be paid for through future debt issuances, Extensions and Replacements ("E&R")
13 or system development fees. Any new plant, as well as cash or working capital,
14 will be paid for by the ratepayers.

15 In the event that either or both of the utilities are sold back to the City at
16 fair market value, assuming it exceeds the cost of debt, the City would likely be
17 required to issue additional debt and would presumably include the annual cost of
18 that debt in future rates. Thus, ratepayers would pay for plant twice; once when it
19 was initially built, and a second time when it was sold back to the City. The same
20 theory would apply to working capital or cash.⁸ It is fundamentally unfair to
21 charge ratepayers twice for the same plant (or cash). Since CEG will be investing

⁸ Since the ratepayers will have paid (or will continue to pay the annual debt service on loans issued to raise cash) for any cash on CEG/CWA Authority's balance sheets, any cash on the balance sheets should also be considered to be customer provided assets.

1 virtually no funds, it should not be entitled to earn a return on the assets purchased
2 from the City if it were to ever sell the utilities back to the City. CEG should also
3 be required to include the customer-provided cash if either or both utilities were
4 sold back to the City. Ratepayer provided cash should not be retained by CEG.
5 Moreover, during redirect examination, Mr. Lykins stated as follows:

We don't make investment in the system with an eye toward
earning a return on that investment. We make an investment in the
system with an eye toward safe, reliable service. Tr. at D-149, lines
22-24.

6 Thus, CEG does not need to earn a return on the water or wastewater assets if
7 they are sold back to the City.

8 **Q: Is there a way to define "fair market value" so that your concerns can be**
9 **addressed without revising the Asset Purchase Agreements?**

10 A: Yes. CEG Authority and the City could agree that the term "fair market value"
11 should include a reduction for any plant or other assets paid for by the ratepayers.
12 Since all new plant and other assets will be paid for by the ratepayers, an offset
13 for ratepayer-provided plant should protect against the possibility of consumers
14 paying for plant or other assets twice.

VIII. POTENTIAL ACQUISITION ADJUSTMENT

15 **Q: Is there a potential acquisition adjustment in CEG's purchase of the Sanitary**
16 **District?**

17 A: The term acquisition adjustment (or at least the recovery of an acquisition
18 adjustment) does not directly apply to acquisitions by not-for-profit utilities,
19 defined as any non-investor owned. However, if one equates annual debt service
20 to return on rate base, there is a municipal equivalent. Since the Authority plans
21 to issue debt to purchase the Sanitary District, ratepayers will pay the annual debt

1 service on the debt issued by CEG. The additional debt service is the functional
2 equivalent of a return on an acquisition adjustment. The Authority plans to issue
3 approximately \$260 million of debt (plus transaction costs) at an annual cost of
4 approximately \$21.8 million per year to purchase the Sanitary District. All other
5 factors held constant, ratepayers will pay a higher annual debt service for the
6 same rate base that existed prior to the purchase. That is functionally equivalent
7 to paying a return on a proposed acquisition adjustment.

IX. ENVIRONMENTAL COMPLIANCE PLAN RECOVERY MECHANISM

8 **Q: Before discussing the Authority's proposed Environmental Compliance Plan**
9 **Recovery Mechanism ("ECPRM"), please discuss the OUCC's position on**
10 **trackers.**

11 **A:** Because the automatic recovery of expenses tends to reduce a utility's incentive to
12 minimize costs, when examining proposed tracking mechanisms not mandated by
13 statute, the OUCC exercises due caution. For instance, tracking mechanisms can
14 create an incentive for a utility to incur or substitute a cost that is tracked in favor
15 of a cost that is not tracked. Tracking mechanisms also often ignore factors, such
16 as a decrease in other expenses or increases in revenues that might offset the
17 increase in a cost. Also, the ratemaking process may fail to recognize the
18 decrease in risk associated with tracking a significant cost. Despite these
19 concerns, a tracking mechanism can benefit both the utility and the ratepayers
20 under certain conditions. If the anticipated expense is material, volatile, beyond
21 the utility's control and is impractical to recover through the traditional
22 ratemaking process, a properly fashioned non-traditional recovery mechanism

1 may be merited. However, it is also important for the utility that has proposed a
2 non-traditional recovery mechanism to illustrate that the recovery mechanism
3 measurably mitigates risk and improves the utility's access to capital.

4 **Q: Please discuss the Authority's proposed ECPRM.**

5 A: On page 19 of Mr. Brehm's testimony, he is asked how the Authority proposes to
6 satisfy the need for annual revenue increases sufficient to fund the federally
7 mandated combined sewer overflow ("CSO") projects under construction. As
8 part of his answer, Mr. Brehm quotes from paragraph 41 of the Verified Petition.
9 Mr. Brehm then discusses the Authority's proposal to start making filings in 2014
10 to recover the costs of the Authority's environmental compliance plan. The
11 proposed plan would allow the Authority to recover the increased cost of debt as
12 well as incremental operating costs. While Mr. Brehm's testimony and his
13 financial models appear to assume annual filings (see page 16 line 21, page 17
14 lines 16-18, page 18 lines 17-18 and page 19 lines 6-8), Mr. Brehm's quote from
15 the Petition indicates that filings and subsequent rate increases could take place
16 more often than once per year (page 19 line 20). The Authority's plan also
17 propose a reconciliation or balancing mechanism. This plan and the mechanics of
18 the reconciliation mechanism are further discussed by CEG witness LaTona
19 Prentice.

20 **Q: Does the Authority's unique circumstances meet the criteria for a non-**
21 **traditional recovery mechanism and merit extraordinary relief?**

22 A: Due to the Authority's truly unique circumstances, some extraordinary relief may
23 be merited. The Authority is subject to an IDEM-mandated compliance plan that
24 requires large amounts of debt-financed capital expenditures on an annual basis.

1 CEG's response and attachment to OUCC data request Q 5-23 provides an
2 estimated amount of loans and annual debt service to meet the anticipated cost of
3 the ECP, included as Attachment ERK-2. The annual debt service will be
4 significant and beyond the Authority's control. Further, recovery of such annual
5 debt service does not fit into Indiana's standard regulatory framework. Given
6 these facts, some type of atypical rate relief may be merited and should benefit the
7 ratepayers as well as the utility.

8 **Q: Does the OUCC accept all of CEG's proposed ECPRM?**

9 A: No. There are portions of the plan the OUCC does not consider appropriate or
10 necessary. First, the plan should not track operating costs but should be limited to
11 the annual debt service. Second, the ECPRM should not include a reconciliation
12 or balancing mechanism. Third, as discussed above, the waste water asset
13 purchase agreement contains language that these rate increases could take place
14 more than once per year or at unspecified intervals. Such increases should not
15 take place more often than every twelve months. Finally, it is appropriate to
16 establish a comprehensive process for the ECPRM so that there are no questions
17 about how future filings will be processed.

18 **Q: Please discuss your concerns with the Authority's proposal to include**
19 **operating expenses as part of its ECPRM.**

20 A: CEG has made a case that it needs to issue a substantial amount of debt to meet
21 the obligations of its long term control plan and that the annual debt service on the
22 debt should be recovered on a timely basis. However, Mr. Brehm does not
23 explain why operating costs should be included in the Authority's proposed
24 ECPRM. Absent statutory authority, the OUCC is unaware of any tracker-type

1 mechanism previously approved by the Commission that allows for recovery of
2 operating costs. While Ex. JRB-1 forecasts a substantial increase in the
3 Authority's annual debt service (Bond Funded Capex - line 18) from \$9.1 million
4 in 2011 to \$176.3 million in 2025, the forecasted operating expenses increase
5 from \$47.2 million in 2011 to only \$72.0 million in 2025 (an increase of
6 approximately 3.1% per year – similar to the historical rate of inflation). This
7 level of increase does not appear to merit the need to track operating expenses.
8 OUCC witness Charles Patrick further discusses the OUCC's concerns regarding
9 the Authority's proposal to include operating costs in its ECPRM.

10 **Q: Please explain your concerns with the Authority's proposal to reconcile**
11 **proposed expenses to be recovered through the ECPRM.**

12 The OUCC opposes the Authority's proposal to include a reconciliation
13 mechanism as part of its ECPRM. Just like the Authority's proposal to include
14 operating expenses in the proposed ECPRM, Mr. Brehm does not explain why a
15 reconciliation mechanism is appropriate or show that the magnitude of under/over
16 recovered costs is sufficient to merit a reconciliation mechanism. His testimony
17 does not discuss under what situations a reconciliation mechanism is appropriate,
18 or demonstrate that those factors exist under the Authority's proposal.

19 The ECPRM will allow the Authority to recover the annual debt service
20 on loans issued to comply with the long term control plan. However, the
21 Authority will have other long-term debt for which it is not seeking an annual
22 reconciliation of the annual debt service, specifically the debt it will acquire from
23 the Sanitary District. With respect to reconciliation or balancing, debt service on
24 proposed loans should be treated no differently than debt service on current loans.

1 Moreover, once any of the proposed debt issuances are included in rates through a
2 base rate case, they are no longer reconciled. Mr. Brehm does not explain why the
3 debt service on proposed loans should temporarily be treated differently than debt
4 service on current loans.

5 **Q: When may it be appropriate to use a reconciliation mechanism?**

6 **A:** Reconciliation mechanisms may be used when, due to the unique nature of the
7 expense incurred, one wants to guarantee a dollar-for-dollar recovery of that
8 expense. Also, the promise of a guaranteed recovery is especially attractive for a
9 utility when the expense has to be estimated or is volatile. Thus, if a specific
10 activity or investment that a utility would not otherwise complete is to be
11 encouraged, the promise of dollar-for-dollar recovery might be made to incent
12 that activity. For example, the Indiana Legislature recognized that water utilities
13 were generally under-investing in their distribution systems. The distribution
14 system improvement charge (“DSIC”) statute was created to encourage utilities to
15 increase their investment in water distribution systems.

16 In contrast, while the cost of the Authority’s long term control plan may
17 merit special regulatory relief in this case, the type of investment and the dollars
18 associated with the ECPRM do not rise to a standard necessary to justify a
19 reconciliation mechanism. Moreover, the ECPRM lacks the volatility to justify
20 reconciliation. The expenses are known and included in rates. Since the OUCC
21 has proposed to exclude operating costs from the ECPRM and has proposed that
22 the annual debt service be true-up, volatility is further reduced. The only
23 volatility will be from a change in revenues, but volatility in revenues influences

1 the recovery of all revenue requirements. Thus, volatility in revenues does not, by
2 itself, justify the need to reconcile expenses related to projects built through the
3 ECP. OUCC witness Charles Patrick discusses additional concerns regarding the
4 Authority's proposal to include a reconciliation mechanism in its ECPRM.

5 **Q: Should increases to rates through the ECPRM take place more than once per**
6 **year?**

7 A: No. Mr. Brehm describes the ECP process as an annual process and the financial
8 model presented in his testimony assumes annual increases. He has not provided
9 testimony to support why increases would need to take place more frequently than
10 once per year. Moreover, the ECP is specific enough that the construction can be
11 planned and the debt issued at regular intervals. Absent an emergency
12 circumstance, the increases from the ECPRM should not take place more often
13 than once per year.

14 **Q: Should a complete process for the ECPRM be established as part of this**
15 **case?**

16 A: Yes. While Ms. Prentice's testimony describes the reconciliation process, it does
17 not describe a complete process for the Authority's ECPRM. During her cross-
18 examination, Ms. Prentice suggested that CEG, the OUCC and the Commission
19 could sit down to work out a procedural plan that would make the most sense for
20 everybody. (Tr. at K-26. lines 13-17). It is more appropriate to discuss a precise
21 process as part of this case. However, if a complete process is not determined as
22 part of this case, then the Commission should set up a sub-docket so that the
23 process can be defined prior to filing the Authority's first proposed ECPRM.

1 **Q: What are your key goals in developing a fair ECRPM?**

2 A: My key goals are to develop a process that 1) provides the Authority with the
3 necessary access to capital on a timely and regular basis in order to meet its EPA
4 and IDEM requirements described in the Long Term Control Plan without
5 disruptions; 2) is precise and administratively efficient for the Authority, the
6 OUCC and the Commission; and 3) does not create an unnecessary burden for
7 ratepayers.

8 **Q: What is your suggested process for the ECPRM?**

9 A: The Authority's filings should not take place more often than once every twelve
10 months. If the Commission approves the Authority's proposal to include the rate
11 increases previously approved by the City County Council, then the first ECPRM
12 does not need to be approved until 2014.⁹ The Authority's first proposed ECPRM
13 would be filed no earlier than September 2013. The OUCC would file its
14 response, if necessary, within 45¹⁰ days of the Authority's complete filing.¹¹ The
15 Authority would have the opportunity to file rebuttal testimony and discovery
16 should be responded to within 5 business days. If necessary, the Commission
17 would schedule an evidentiary hearing.

⁹ If the Commission rejects the Authority's proposal to increase its rates in 2012 and 2013 by up to 10.75% (the increases approved by the City County Council) without IURC approval, then the increases for the ECPRM could start in 2011 instead of 2013.

¹⁰ Because all parties will be unfamiliar with ECPRM process, the Authority's first ECPRM will be more difficult to review and the OUCC's time frame should be extended to 60 days.

¹¹ The 45 time frame is based on the OUCC's proposal that the ECPRMs do not include operating expenses or are not reconciled. Including operating expenses or a reconciliation mechanism will involve a more extensive review by the OUCC and require more time for the OUCC's response.

1 The Authority's filing should include, at a minimum, a list of the projects
2 to be completed during the next 12 months; documentation that all of the
3 proposed projects are part of the IDEM-mandated Environmental Compliance
4 Plan; the amount of debt to be issued (listing the anticipated transaction costs and
5 funds for debt service reserve); an amortization schedule (including the
6 anticipated interest rate[s]); a complete description of any derivatives or other
7 hedging instruments used by CEG to mitigate interest rate risk; the most recent
8 twelve (12) months of revenues; the total amount of the increase on both a dollar
9 and percentage basis; and a proposed tariff. The percent increase should be based
10 upon the Authority's authorized rates from its most recent Commission order.
11 Since the OUCC is recommending that the Authority present a general rate case
12 in 2013 (See the testimony of OUCC witness Margaret Stull), Commission
13 authorized revenues will be available to calculate the percentage increase prior to
14 the first ECPRM. The increase would be on an across the board basis. In any
15 year after the first ECPRM is filed, if there is a change in annual debt service on a
16 prior year's loan the change in debt service on any prior year loans should be
17 described in the Authority's filing and could be updated for the current year.

18 The Commission's order would authorize the rate increase upon proof that
19 the Authority has closed on its loan. Since the precise interest rates and annual
20 debt service will not be known until the Authority has closed on its proposed loan,
21 it will file a true-up report and revised tariff. The OUCC would have 10 business
22 days to respond. If the OUCC does not respond within 10 business days, the
23 Authority could implement its proposed increase at its will.

1 **Q: Is the OUCC willing to meet with CEG and the Commission to develop a**
2 **precise ECPRM?**

3 A: Yes. The process described above is a suggested process. It is intended to
4 address the concerns described above. Despite my proposal to establish a process
5 as part of this case, the OUCC understands that the parties working
6 collaboratively might develop a more comprehensive ECPRM process. .

7 **Q: Should the ECPRM be periodically reviewed?**

8 A: Yes. The ECPRM will be complex. While it is important to develop a stable
9 recovery mechanism, it is also important that the recovery mechanism be flexible.
10 The ECPRM should be re-evaluated on a periodic basis to insure it is
11 accomplishing its intended purposes. Thus, the Authority and the OUCC should
12 have the right to periodically suggest changes to the ECPRM.

13 **Q: Do you have any additional concerns regarding the ECPRM?**

14 A: Yes. The Authority's Wastewater System Financial Summary (JRB-1) is based
15 on the assumption that it will be issuing thirty (30) year debt to fund its ongoing
16 capital improvements. See Attachment ERK-2. My analysis and opinion that
17 some type of atypical rate relief is merited is based on the analysis provided by
18 the Authority. If the Authority were to fund its capital improvements in a manner
19 different than that presented in its testimony and data request responses, my
20 opinion regarding the structure of the ECPRM may be different.

21 **Q: Should including the debt service on annual debt reduce the Authority's need**
22 **for working capital?**

23 A: Yes. In CEG's response to OUCC data request question 12-15 stated that one of
24 the reasons it needed such a large amount of working capital was due to its

1 construction program. See, Attachment ERK-3. But the need to use working
2 capital to fund construction should only be the case if there is a lag between when
3 the Authority spends funds for construction and when it has access to long term
4 debt. If the ECPRM provides annual access to long term debt and the amount
5 borrowed is sufficient to pay the capital expenditures for the ECP over the next
6 twelve (12) months, then capital expenditure will be paid for directly out of long
7 term debt, and it is unnecessary to provide, and include in rates, funds to repay a
8 large loan for working capital.

X. PILOT PAYMENTS

9 **Q: Have Joint Petitioners requested specific authority to include a specified level**
10 **of future PILOT payments in the Authority's future rates?**

11 A: Yes. Section 3.05 (page 25) of the Wastewater Asset Purchase Agreement
12 ("APA") for the Sanitary District refers to a "PILOT Ordinance" which specifies
13 a predetermined level of PILOT payments the Authority will pay to the City
14 through 2039. The Wastewater APA also contemplates as a condition of closing
15 that the Commission approve this obligation. Based on Joint Petitioners'
16 responses to various cross examination questions, I understand the Authority and
17 CEG propose a guarantee from the Commission that the specified level of PILOT
18 payments will be an authorized revenue requirement in future rate cases. The
19 specific level of payments was provided in Exhibit A of the City County Special
20 Ordinance No. 5, 2010, and was attached to Mr. Cotterill's testimony. My
21 testimony includes a list of the Authority's future PILOT payments. See
22 Attachment ERK-4.

1 **Q: Are there any clarifications that should be attached to Joint Petitioners'**
2 **proposal?**

3 A: Yes. According to Mr. Cotterill's testimony, the City issued Special Ordinance
4 No. 5 on May 17, 2010. The Ordinance authorizes the sale of revenue bonds by
5 the City to be paid for by future PILOT payments from the Authority to the City.
6 The bond issuance closed on August 12, 2010 in the amount of \$159,515,000.
7 The City provided a copy of the amortization schedule in response to OUCC data
8 request 18-1. See Attachment ERK-5. A comparison of Attachment ERK-4 to
9 Attachment ERK-5 shows that the payments on the loan are lower than the annual
10 PILOT payments that Joint Petitioners propose be guaranteed in future rates.

11 **Q: Despite the fact that the proposed PILOT payment schedule does not match**
12 **the loan payment schedule, does the OUCC accept Joint Petitioners'**
13 **proposed PILOT schedule?**

14 A: Yes, but only if the Authority may not seek in future rates to recovery PILOT
15 payments greater than those it has agreed to pay to the City as listed in the PILOT
16 Ordinance. The OUCC is accepts the proposed floor on PILOT payments if the
17 proposed level of PILOT payments is also a ceiling.

18 **Q: Why is the OUCC willing to accept a proposed floor on PILOT payments**
19 **that exceeds the annual debt service on the PILOT loan?**

20 A: CEG's witness Jeffrey Kelsey provided a schedule in his testimony that compared
21 the proposed PILOT payment schedule to the estimated property taxes that the
22 City could otherwise collect if the Authority constructs the plant as described in
23 its testimony. Based on Mr. Kelsey's testimony the amount the City could
24 otherwise collect and charge to ratepayers through the Authority's rates exceeds
25 the amount it has agreed to collect from the Authority. This creates a benefit to
26 the ratepayers in the form of a lower revenue requirement.

1 **Q: If the Authority is not willing to accept a ceiling on future PILOT payments**
2 **equal to its proposed floor, where should the floor be set?**

3 A: The floor should be set at the amount of the annual debt service payments in the
4 City's PILOT loan. See Attachment ERK-7.

XI. ASSET PURCHASE AGREEMENTS

5 **Q: Please state the specific language in the Petition related to the APAs.**

6 A: Item (a) page 18 of the Petition states as follows:

7 ...approving the Water System Agreement and the transactions
8 contemplated therein, finding that said agreements and its terms
9 are reasonable and in the public interest and authorizing the City,
10 the DOW and the Board to take all actions necessary to effect such
11 agreement;

12 Item (h), page 19 of the Petition states as follows:

13 ...approving the Wastewater System Agreement and the
14 transactions contemplated therein, finding said agreement and its
15 terms and the Authority's agreement to make the PILOT Payments
16 in accordance with the schedule agreed upon by the parties and
17 attached to Special Ordinance No. 5, 2010, to be reasonable and in
18 the public interest and authorizing the City, the Sanitary District
19 and the Authority to take all actions necessary to effect such
20 agreement.

21 **Q: Does the OUCC accept Joint Petitioners' request to approve the APAs?**

22 A: To the extent Commission authority is required, the OUCC generally accepts
23 Joint Petitioners' proposal for the Commission to approve the APAs. However,
24 the OUCC has both specific and general exceptions to its position that it accepts
25 Joint Petitioners' request to approve the APAs.

26 **Q: What are OUCC's specific exceptions regarding the asset purchase**
27 **agreements?**

28 A: As discussed earlier in my testimony, unless fair market value is defined so that it
29 excludes assets paid for by the ratepayers, the language in the APAs that would

1 require the City to pay fair market value if the City were to ever purchase either
2 utility back from CEG is problematic. Other OUCC witnesses may have
3 expressed specific concerns regarding the APAs and I will not repeat them here.
4 However, to the extent that the OUCC has expressed specific concerns or made
5 specific recommendations regarding the asset purchase agreements, our general
6 acceptance of either APA does not override these concerns or recommendations.

7 **Q: Please discuss your more general concerns.**

8 A: Both APAs contain provisions that may influence future ratemaking treatment. In
9 certain cases, such as the request to make PILOT payments, the OUCC has
10 specifically addressed portions of the APAs. However, I am concerned that there
11 may be authorities requested by Joint Petitioners contained within the APAs that
12 are not addressed in Joint Petitioners' testimony. For example, Section 8.15 of
13 the Wastewater purchase agreement states as follows:

14 **Adequate Rates.** To the extent necessary, Purchaser shall from
15 time to time request IURC approval of rates and charges that
16 produce sufficient revenues to pay and fulfill its indemnification
17 obligations, the CSO Control Measures, PILOT Payments and all
18 other Assumed Liabilities and other statutory obligations and
19 obligations under this Agreement.

20 The OUCC does not agree with the APA's definition of adequate rates. In future
21 rate cases it is not the APA that will define adequate wastewater rates but the
22 applicable Indiana code. The recovery of indemnification obligations or other
23 assumed liabilities are not part of the Indiana code that defines adequate
24 wastewater rates. As discussed more thoroughly in OUCC witness Margaret
25 Stull's testimony, the OUCC does not agree that these items should be included in
26 future rates. Nor do we agree that their inclusion in the APA creates authority for

1 CEG or the Authority to include these items as revenue requirements for the water
2 or wastewater trusts in future rate cases.

3 **Q: Are there other areas in the APAs that may influence future rates?**

4 A: Potentially, yes. Because both documents are voluminous and complex, the
5 OUCC may not have identified all of the ratemaking treatments included in the
6 APAs (or documents cited in the APAs). The OUCC asked Joint Petitioners to
7 clarify the treatments contained in the APAs in OUCC data request 1 Questions 1-
8 3. See Attachment ERK-6. Joint Petitioners' responses did not clarify future
9 ratemaking treatment. The OUCC also tried to generally seek clarification of
10 Joint Petitioners' requested authorities during its cross of Mr. Brehm.

11 Q: All right, thank you. I went through a list of the various
12 ratemaking requests that Citizens has made in this case. Are
13 there any that I missed?

14 A: I don't know. The Petition speaks for itself. I can't
15 remember everything in the Petition.

Tr. at G-106, lines 15-20.

16 The OUCC disagrees that the Petition speaks for itself. The Petition asks the
17 Commission to approve the APAs. As described above, there are sections of the
18 APAs that may dictate future ratemaking treatment that is not discussed in
19 Petition or testimony. Unless CEG or the Authority has made a specific request
20 for future ratemaking treatment for either the water or wastewater trust in its
21 testimony, that request cannot be fully vetted by the OUCC and the Commission
22 in this case. Should Petitioners' requests to approve the APAs subsequently be
23 granted by the Commission, the OUCC recommends that the Commission clarify
24 that approval of either of the APAs should not constitute preapproval of any

1 agreements or language that influences future ratemaking treatment. Thus, the
2 OUCC would retain the right to challenge the ratemaking treatment of any
3 provision in the APAs that are not specifically addressed in the Commission's
4 final order.

XII. EQUITY INVESTMENT

5 **Q: During cross examination Mr. Lykins indicated that any equity investment**
6 **into either the water or wastewater utilities would not reduce future utility**
7 **rates. Do you agree with Mr. Lykins' assertion?**

8 A: No. If CEG ran the water or wastewater trust as an investor-owned utility, Mr.
9 Lykins comments might have merit. However, since both the water and
10 wastewater utilities are proposed to be regulated as municipal utilities, an equity
11 or cash investment into either utility could be used to reduce the need for debt.
12 For example, the Authority has proposed to borrow approximately \$260 million
13 (plus up to \$100 million in working capital – inclusive of debt service reserve and
14 transactions costs) to purchase and run the wastewater utility. If the Authority
15 borrows the full \$360 million, the annual debt service on the anticipated debt is
16 approximately \$30.2 million. An equity or cash infusion from CEG would reduce
17 the amount the Authority would have to borrow, and would subsequently reduce
18 the annual debt service and future rates.

XIII. SYSTEMS OUTSIDE OF MARION COUNTY

19 **Q: Do the systems located outside of Marion County create distinct concerns**
20 **that need to be addressed?**

21 A: Yes. Customers located outside of Marion County, such as Harbour Water or
22 Morgan Water Corporation, will not be beneficiaries of the Trusts and may

1 require additional protections. Should CEG decide to sell or convert systems
2 located outside Marion County into investor-owned utilities (“IOU”), or otherwise
3 treat these systems differently than systems whose customers are beneficiaries,¹²
4 they should not be able to do so without Commission approval. The sale or
5 conversion of these systems into an IOU would likely lead to higher rates.
6 Systems whose customers are not beneficiaries of the Trust deserve the same
7 service as beneficiaries.

XIV. ORDER LANGUAGE

8 **Q: On page 23 of his testimony Mr. Brehm indicated that language that would**
9 **allow the Authority to recover increasing costs and maintain financial**
10 **integrity in the Commission’s proposed order may help the Authority with**
11 **rating agencies. Do you have any thoughts on specific language the**
12 **Commission could include in a proposed order that might address concerns**
13 **of rating agencies?**

14 **A:** Yes. I would recommend that the Commission include in its final order in this
15 Cause the following or similar language:

16 We understand the unusual scope and magnitude of the Authority’s
17 need to access the capital markets on an ongoing and regular basis
18 and their need for rates to support frequent debt issuances. We
19 recognize the provision of safe and reliable utility services at a
20 reasonable price is essential to the development of this City. We
21 also recognize that maintaining a utility’s financial integrity is
22 necessary to insure the provision of utility service. We stand ready
23 to examine appropriate non-traditional ratemaking concepts to aid
24 the Authority to ensure it can meet the challenges so long as any
25 non-traditional concept does not inhibit the Authority’s incentive
26 to minimize costs and balances the interests of the ratepayers.

¹² This recommendation also applies to CEG’s proposal to maintain the different bad check charges included in the proposed tariffs. See, Ex. LSP-2, – original page 202; Testimony of Margaret Stull.

1 **Q: On page 22 of his testimony, Mr. Brehm asserts the Authority may need to**
2 **propose the use of a “future test year” in future rate cases. Should the**
3 **Commission include language in its order in this Cause “expressing an**
4 **understanding of the need and willingness to consider a future test year” in**
5 **the Authority’s future rate cases?**

6 A: No. Citizens has not asked for approval of a future test year. Rather, Mr. Brehm
7 noted that Citizens may propose to use a future test year in a subsequent rate case.
8 This is not the case to discuss the pros and cons of a future test year. A “future
9 test year” implicates many aspects of ratemaking. Moreover, the term “future test
10 year” has different meanings to different people and its application is nuanced. If
11 the Commission is going to consider a future test year in a rate case, the concept
12 should be fully defined and fully vetted. If the Authority wishes to propose a future
13 test year in a future rate case, it should do so at that time and have the burden to
14 demonstrate its selected test year is the most appropriate. Moreover, if the Authority
15 decides to “propose the use of a future test year,” it should not assume it will be
16 granted such approval. In such a case, the Authority should file its testimony with all
17 data necessary to determine rates based on a traditional historical test year.

XV. IURC ORDER IN CAUSE 43645

18 **Q: Does the Commission’s order in the City of DOW’s last rate case, Cause No.**
19 **43645, influence any of your recommendations in this case?**

20 A: Possibly. At the time I wrote this testimony, a final order in Cause No. 43645 had
21 not been issued. Depending on the results of the Commission’s final order in that
22 Cause there are issues that may need to be addressed in this Cause. First, any
23 reporting or funding requirements ordered in Cause No. 43645, unless specifically
24 identified as not being ongoing, should be considered ongoing and not change as a

1 result of the proposed transaction. Next, the DOW sought funds in working
2 capital to repay the City for funds the DOW borrowed from the City's general
3 fund. If the final order in Cause No. 43645 accepts the DOW's proposal and
4 authorizes funds to repay the City and this transaction is approved, the funds
5 collected to repay the City should in fact be used to repay the City, for whatever
6 amortization period used in the Commission order. Also, the DOW's proposed
7 order in Cause No. 43645 contained the following language:

8 The evidence demonstrates that the Petitioner is willing to meet
9 with the OUCC to develop a process concerning future issuances
10 of debt by the Petitioner. Exhibit MTK-R at 21. We find that the
11 Petitioner and the OUCC shall meet to develop a process for
12 review of the Petitioner's future debt issuances. The Petitioner shall
13 file a pleading in this Cause setting forth the process developed
14 with the OUCC within twelve (12) months from the date of this
15 Order.

16 While the OUCC proposed that the process be completed over six (6) months, its
17 proposed order contained similar language. If this or a similar finding is included
18 in the Commission's final order in Cause No. 43645, then the finding should also
19 apply to any entity that purchases the DOW or its assets. Finally, in its last rate
20 case the DOW sought to include in rates money to improve the funding status of
21 its Other Than Pension Employee Benefits ("OPEB") trust. Any restriction
22 placed on the DOW by the Commission concerning the use of funds provided for
23 OPEBs should continue with respect to CEG Water.

XVI. OUCC RECOMMENDATIONS

1 **Q: Please summarize your recommendations to the Commission in this Cause.**

2 A: Several sections of my testimony express concerns or attempt to clarify portions
3 of the proposed transaction, but do not make a specific recommendation. Other
4 sections make specific recommendations. These recommendations were made to
5 insure that ratepayers will receive safe, adequate, and reliable service at a
6 reasonable cost on an ongoing basis. My testimony makes the following
7 recommendations:

- 8 ▪ I recommend that CEG be required to document the savings its
9 generates as a result of the proposed acquisition, and to provide reports
10 to both the Commission and the OUCC showing what savings have
11 been achieved and that the savings are directly attributed to the
12 proposed merger.
- 13 ▪ I recommend that the term "Fair Market Value" be defined by CEG
14 and the City in a manner that prevents the ratepayers from paying for
15 the same plant or other assets twice, if either or both utilities are ever
16 sold back to the City.
- 17 ▪ I recommend the Commission reject the Authority's proposal to
18 include operating expenses or a reconciliation mechanism in its
19 proposed ECPRM. I also discuss a specific process for the Authority's
20 ECPRM.
- 21 ▪ I recommend that the Authority's proposed PILOT payment be
22 accepted by the Commission in future rates, but only on the condition
23 that the proposed PILOTs act as both a floor and a ceiling.
- 24 ▪ I recommend, that unless specifically identified in Commission's final
25 order, approval of the APAs does not constitute a blanket approval of
26 all items in the APAs that may influence future ratemaking treatment.
- 27 ▪ Section XIII of my testimony recommends that systems outside
28 Marion County be treated similarly to systems located inside Marion
29 County.

1 ▪ I propose language that the Commission can include in its final order
2 that may provide confidence to bond rating agencies that the Water
3 and Wastewater utilities will have sufficient rates to meet their
4 ongoing debt service requirements.

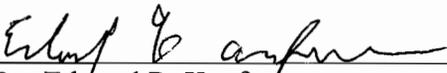
5 ▪ I recommend that decisions made in the final order in Cause No.
6 43645 should apply to CEG, should this transaction be completed.

7 **Q: Does this conclude your testimony?**

8 A: Yes. However, the Commission may issue an order in DOW Cause No. 43645,
9 which contains findings that may influence some of my recommendations in this
10 case. Should an order in that case be issued prior to the hearing in this case, some
11 of my recommendations may need to be revised. I also may need to respond to
12 supplemental testimony regarding the United operating contract.

AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.


By: Edward R. Kaufman
Indiana Office of
Utility Consumer Counselor

1-13-11
Date

Cause No. 43936

Section 3

Table 3-5
 Summary of Value, Debt and Equity

Valuation	Waterworks	Wastewater	Total
RCNLD	\$2,158,961,000	\$2,099,572,000	\$4,258,533,000
OCLD	\$533,680,000	\$700,338,000	\$1,234,018,000
Income Approach			
Public 2007 Curve	NA	\$1,889,899,000	
Public 2009 Curve	NA	\$1,080,573,000	
Regulated Public Option	\$1,147,354,000	\$1,222,647,000	\$2,370,001,000
Regulated IOU	\$949,200,000	\$980,899,000	\$1,930,099,000
Low End Fair Market Value	\$949,200,000	\$980,900,000	\$1,930,100,000
High End Fair Market Value	\$1,147,000,000	\$1,081,000,000	\$2,228,000,000
Debt	\$918,870,000	\$552,442,500	\$1,471,312,500
Low End Net Equity	\$30,330,000	\$428,456,500	\$458,786,500
High End Net Equity	\$228,130,000	\$528,557,500	\$756,687,500

Cause No. 43936

Responses of Citizens Energy Group and CWA Authority, Inc. to

Office of Utility Consumer Counselor's

Fifth Set of Data Requests

DATA REQUEST NO. 23: For the environmental compliance plan discussed in Mr. Brehm's testimony and the anticipated debt listed on JRB-1, please provide an anticipated amortization schedule for each piece of debt the wastewater utility anticipates it will issue for each year from 2011 through 2025. If included in your workpapers, please indicate the page number.

RESPONSE:

See attachment OUCC DR 5-23.

WITNESS:

John R. Brehm

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
Twelfth Set of Data Requests

DATA REQUEST NO. 15: The attachment Citizens provided in Response to OUCC Question 5-23 indicates a borrowing of \$90,449,095 (before issuance costs) under the column DSRF/Working Capital 2011 (sec line reference – “Acquisition Cost). Please explain how that amount was derived and show all calculations.

RESPONSE:

Petitioner has targeted an opening working capital balance equal to one and a half years of operating expenses, in this case approximately \$90.4 million. Conventional rating agency guidance for working capital adequacy is six months of operating expenses. However, the Wastewater System will have an extraordinary amount of accounts payable relative to its accounts receivable due to the size of its capital spending program, so conventional rating agency guidance is not necessarily applicable in this case. Consequently for modeling purposes a working capital target of one and one half years of operating expenses was chosen.

WITNESS:

John R. Brehm

EXHIBIT APILOT PAYMENT SCHEDULE

Year	Amount
2010	\$11,519,787
2011	\$13,038,566
2012	\$14,264,201
2013	\$14,874,669
2014	\$12,770,735
2015	\$17,168,014
2016	\$17,168,014
2017	\$19,520,181
2018	\$22,729,332
2019	\$25,647,129
2020	\$27,908,296
2021	\$28,739,159
2022	\$29,152,282
2023	\$29,444,917
2024	\$27,788,097
2025	\$26,095,838
2026	\$24,362,479
2027	\$22,851,006
2028	\$23,154,132
2029	\$23,485,461
2030	\$23,842,921
2031	\$24,221,728
2032	\$24,618,285
2033	\$25,031,974
2034	\$25,457,202
2035	\$25,889,899
2036	\$26,330,027
2037	\$26,777,638
2038	\$27,232,858
2039	\$27,695,816

Cause No. 43936

City of Indianapolis and its Department of Waterworks
and its Sanitary District ("City of Indianapolis")

Responses to Office of Utility Consumer Counselor's
Eighteenth Set of Data Requests

Q 18-1: Page 8 lines 6-7 of Mr. Cotterill's asserts that "The closing of the bonds in principal amount of \$159,515,000 occurred on August 12, 2010." What was the interest rate used on these bonds? Please provide an amortization schedule [with interest rate(s)] for the \$159,515,000 loan.

Answer: See attached 18.1.

Cause No. 43936
 City of Indianapolis and its Department of Waterworks
 and its Sanitary District ("City of Indianapolis")
 Responses to Office of Utility Consumer Counselor's
 Eighteenth Set of Data Requests

ATTACHMENT 18-1

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Rate</u>	<u>Interest</u>	<u>Debt Service Total</u>
01/01/2011			3,054,199.22	3,054,199.22
01/01/2012			7,910,156.26	7,910,156.26
01/01/2013			7,910,156.26	7,910,156.26
01/01/2014			7,910,156.26	7,910,156.26
01/01/2015			7,910,156.26	7,910,156.26
01/01/2016			7,910,156.26	7,910,156.26
01/01/2017			7,910,156.26	7,910,156.26
01/01/2018			7,910,156.26	7,910,156.26
01/01/2019	\$ 4,180,000	5.000%	7,910,156.26	12,090,156.26
01/01/2020	4,390,000	5.000	7,701,156.26	12,091,156.26
01/01/2021	4,610,000	5.000	7,481,656.26	12,091,656.26
01/01/2022	1,125,000	3.250*	7,251,156.26	12,091,156.26
01/01/2022	3,715,000	5.000*		
01/01/2023	750,000	3.500*	7,028,843.76	12,088,843.76
01/01/2023	4,310,000	5.000*		
01/01/2024	500,000	3.600*	6,787,093.76	12,092,093.76
01/01/2024	4,805,000	5.000*		
01/01/2025	550,000	3.700*	6,528,843.76	12,088,843.76
01/01/2025	5,010,000	5.000*		
01/01/2026	500,000	3.750*	6,257,993.76	12,092,993.76
01/01/2026	5,335,000	5.000*		
01/01/2027	6,120,000	5.000	5,972,493.76	12,092,493.76
01/01/2028	265,000	4.000*	5,666,493.76	12,091,493.76
01/01/2028	6,160,000	5.000*		
01/01/2029	500,000	4.000*	5,347,893.76	12,092,893.76
01/01/2029	6,245,000	5.000*		
01/01/2030	755,000	4.125*	5,015,643.76	12,090,643.76
01/01/2030	6,320,000	5.000*		
01/01/2031	7,425,000	5.000	4,668,500.00	12,093,500.00
01/01/2032	7,795,000	5.000	4,297,250.00	12,092,250.00
01/01/2033	8,185,000	5.000	3,907,500.00	12,092,500.00
01/01/2034	8,595,000	5.000	3,498,250.00	12,093,250.00
01/01/2035	9,025,000	5.000	3,068,500.00	12,093,500.00
01/01/2036	9,475,000	5.000	2,617,250.00	12,092,250.00
01/01/2037	9,945,000	5.000	2,143,500.00	12,088,500.00
01/01/2038	10,445,000	5.000	1,646,250.00	12,091,250.00
01/01/2039	10,965,000	5.000	1,124,000.00	12,089,000.00
01/01/2040	11,515,000	5.000	575,750.00	12,090,750.00
	\$159,515,000		\$164,921,468.16	\$324,436,468.16

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
First Set of Data Requests

DATA REQUESTS

DATA REQUEST NO. 1: On page 18 of the Petition, Joint Petitioners ask the Commission to approve the "transactions contemplated" in the Water System Agreement.

- a. List each such transaction.
- b. Identify the provision of the Water System Agreement wherein the transaction is contemplated.
- c. Describe the current status of each such transaction including whether the transaction has been reduced to writing.
- d. Provide a copy of any contract or memorandum of understanding for each transaction reduced to writing.

RESPONSE:

The "transactions contemplated" in the Water System Agreement for which Joint Petitioners seek Commission approval generally are set forth in requests for approval (a) through (g), and (r). Transactions that have or are expected to have a specific contract or memorandum of understanding associated therewith, which will be submitted to the Commission, are set forth below:

(i) Citizens Energy Group's purchase from the Department of Waterworks and the City of Indianapolis of "all of the right, title and interest of the Department to and under all of the Department's assets of the System" and "all of the right, title and interest of the City, or any of the City's Affiliates, to and under all of the assets used necessary or important in the operation of the System. . . ." The provisions relating to the sale and acquisition of the assets of the Water System are set forth in Article II of the Water System Agreement. A copy of the Water System Agreement was filed with Petitioners' case-in-chief as Exhibit No. CBL-6.

(ii) Citizens Energy Group, the Department of Waterworks and the City "shall negotiate for the assignment, amendment or termination of, and full release of all liabilities and obligations of [the City and Department] under, the United Agreement and Veolia Agreement." The provisions relating to the assignment of the United Agreement and Veolia Agreement are set forth in Section 8.04 of the Water System Agreement. Negotiations among the Citizens Energy Group, the City, United and Veolia are ongoing. Any agreement entered into with respect to the United Agreement and Veolia Agreement will be filed with the Commission following execution.

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
First Set of Data Requests

DATA REQUEST NO. 2: On page 19 of the Petition, Joint Petitioners ask the Commission to approve the “transactions contemplated” in the Wastewater System Agreement.

- a. List each such transaction.
- b. Identify the provision of the Wastewater System Agreement wherein the transaction is contemplated.
- c. Describe the current status of each such transaction including whether the transaction has been reduced to writing.
- d. Provide a copy of any contract or memorandum of understanding for each transaction reduced to writing.

RESPONSE:

The “transactions contemplated” in the Wastewater System Agreement for which Joint Petitioners seek Commission approval generally are set forth in requests for approval (h) through (s). Transactions expected to have a specific contract or memorandum of understanding associated therewith, which will be submitted to the Commission, are set forth below:

(i) CWA Authority Inc.’s purchase from the City of Indianapolis and the Sanitary District of the City of Indianapolis of “all of the right, title and interest of the [Sellers] to and under all of the assets used, necessary or important in the operation of the System. . . .” The provisions relating to the sale and acquisition of the assets of the Wastewater System are set forth in Article II of the Wastewater System Agreement. A copy of the Wastewater System Agreement was filed with Petitioners’ case-in-chief as Exhibit No. CBL-7.

(ii) Citizens Energy Group, CWA Authority, Inc., the City of Indianapolis and the Sanitary District of the City of Indianapolis “shall negotiate for the assignment, amendment or termination of, and full release of all liabilities and obligations of [the City and Department] under, the United Agreement and Veolia Agreement.” The provisions relating to the assignment of the United Agreement and Veolia Agreement are set forth in Section 8.04 of the Wastewater System Agreement. Negotiations among the Citizens Energy Group, CWA Authority, Inc., the City, United and Veolia are ongoing. Any agreement entered into with respect to the United Agreement and Veolia Agreement will be filed with the Commission following execution.

(iii) An operating agreement between CWA Authority, Inc. and Citizens Energy Group pursuant to which Citizens Energy Group’s employees will manage and operate the wastewater system. The proposed operating agreement is being finalized and will be late-filed with the Commission as Petitioners’ Exhibit WAT-1. The proposed operating agreement is not specifically referenced in the Wastewater System Agreement, but is

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
First Set of Data Requests

necessary because Citizens Energy Group employees will perform management and operations services for CWA Authority, Inc.

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
First Set of Data Requests

DATA REQUEST NO. 3: On page 13 of his testimony, Mr. Lykins states that he emphasized that any acquisition by Citizens Energy Group "must be capable of receiving all necessary approvals."

- a. List all approvals Citizen Energy Group considers necessary.
- b. For each necessary approval, state the precise finding Citizen Energy Group requires from the Commission.

RESPONSE:

- a. Mr. Lykins was referring to the approvals set forth in Articles XII and XIII of the Water System Agreement and Wastewater System Agreement. The particular approvals with respect to the Water System Agreement include the following:

Section 13.03. IURC Transactional Approvals. IURC approval of the terms and conditions of this Agreement and the transactions contemplated by this Agreement, including but not limited to Purchaser's proposed allocation of recognized operating and/or capital expenditure savings among the affected utilities;

Section 13.04. IURC Approval of Purchaser Items. (a) IURC approval of Purchaser's application (submitted at Purchaser's expense) to include as a revenue requirement in future water rates any debt service assumed or incurred by Purchaser in connection with the transactions contemplated by this Agreement. . .

Section 13.06. Environmental Approvals. The receipt of any required EPA and IDEM approvals, including without limitation those related to any NPDES permits on terms reasonably acceptable to Purchaser[.]

The particular approvals with respect to the Wastewater System Agreement include the following:

Section 13.03. IURC Transactional Approval. IURC approval of the terms and conditions of this Agreement and the transactions contemplated by this Agreement, including but not limited to Purchaser's proposed allocation of recognized operating and/or capital expenditure savings among the affected utilities;

Section 13.04. IURC Approval of Purchaser Items. IURC approval of Purchaser's application (submitted at Purchaser's expense);

(a) to have the IURC assume rate approval jurisdiction over the rates for the System;

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
First Set of Data Requests

(b) to include as a revenue requirement in future wastewater rates, in addition to all other recoverable costs, the issuance of debt in respect of the Assumed Debt Obligations and any other debt service assumed or incurred in order to complete the transactions contemplated by this Agreement, and the PILOT Payments payable as provided on Section 3.05; and

(c) to the extent necessary, of Purchaser's assumption of or issuance of debt, in the manner determined by Purchaser;

Section 13.05. IURC Approval of Rates. IURC approval of the City's then current wastewater rates as approved by the City-County Council, which rates shall increase no more than 10.75% annually through 2013, subject to any need for emergency rate relief under Indiana Code 8-1-2-113 or necessary increases in rates to avoid a default under coverage or other covenants of Purchaser or Citizens set forth in any applicable bond indenture;

Section 13.06. SRF Approval. Approval by the SRF of:

(a) Purchaser's assumption or replacement of any System interest-bearing debt issued by the City and payable to the Indianapolis Bond Bank or SRF with the same payment amounts, payment dates, redemption features and security. provisions as currently apply to all such applicable debt, or other mutually agreed upon terms between SRF, Citizens and Purchaser; and

(b) the transfer to Purchaser or for its benefit of related funds under the indenture(s) being held by the City or SRF (e.g., debt service funds, debt service reserve funds, construction funds, policies, etc.);

Section 13.08. IRS Determination. The receipt of an Internal Revenue Service determination that Purchaser is a tax-exempt political subdivision or instrumentality of Citizens exempt from federal income taxation; that Purchaser shall be authorized to issue the tax exempt bonds in the manner acceptable to Purchaser, that Purchaser may finance the Purchase Price by tax exempt acquisition debt;

Section 13.09. Environmental Approvals. The receipt of any required EPA and IDEM approvals, including without limitation those related to the Consent Decree and any NPDES permits on terms reasonably acceptable to Purchaser[.]

- b. The findings Citizens Energy Group and CWA Authority, Inc. seek from the Commission with respect to the "IURC Approvals" set forth above, are listed in the requests for relief in the Petition.

Cause No. 43936
Responses of Citizens Energy Group and CWA Authority, Inc. to
Office of Utility Consumer Counselor's
First Set of Data Requests

WITNESS:

Carey B. Lykins