

**ORIGINAL**

STATE OF INDIANA

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

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF SOUTHERN INDIANA GAS )  
AND ELECTRIC COMPANY D/B/A CENTERPOINT )  
ENERGY INDIANA SOUTH FOR: (1) APPROVAL OF AND )  
A CERTIFICATE OF PUBLIC CONVENIENCE AND )  
NECESSITY FOR FEDERALLY MANDATED NATURAL )  
GAS TRANSMISSION, DISTRIBUTION AND STORAGE )  
PROJECTS (THE “COMPLIANCE PROJECTS”), AND )  
THE COSTS THEREOF, RELATED TO PETITIONER’S )  
COMPLIANCE WITH VARIOUS FEDERALLY )  
MANDATED REQUIREMENTS RELATED TO NATURAL )  
GAS PIPELINE SAFETY AND INTEGRITY; (2) )  
APPROVAL OF PETITIONER’S 5-YEAR PLAN FOR )  
TRANSMISSION, DISTRIBUTION AND STORAGE )  
SYSTEM IMPROVEMENTS PURSUANT TO IND. CODE )  
CH. 8-1-39 (“TDSIC PLAN”) (AND FOR COMPLIANCE )  
PROJECTS, IN THE EVENT AND TO THE EXTENT THE )  
COMMISSION CONCLUDES THAT SUCH PROJECTS )  
DO NOT MEET THE REQUIREMENTS OF IND. CODE )  
CH. 8-1-8.4); (3) AUTHORIZE TDSIC TREATMENT AS )  
PROVIDED IN IND. CODE CH. 8-1-39 FOR THE )  
NATURAL GAS TRANSMISSION, DISTRIBUTION AND )  
STORAGE SYSTEM IMPROVEMENTS (AND THE )  
COSTS THEREOF) SET FORTH IN PETITIONER’S )  
TDSIC PLAN; (4) APPROVAL OF PETITIONER’S USE OF )  
ITS COMPLIANCE AND SYSTEM IMPROVEMENT )  
ADJUSTMENT (“CSIA”) MECHANISM AND RELATED )  
ACCOUNTING DEFERRALS, PURSUANT TO IND. CODE )  
CHS. 8-1-8.4 AND 8-1-39, FOR THE TIMELY RECOVERY )  
AND DEFERRAL OF COSTS RELATED TO SUCH )  
COMPLIANCE AND TRANSMISSION, DISTRIBUTION )  
AND STORAGE PROJECTS (INCLUDING FINANCING )  
COSTS INCURRED DURING CONSTRUCTION); AND (5) )  
APPROVAL OF OTHER RELATED RATEMAKING )  
RELIEF AND TARIFF PROPOSALS CONSISTENT WITH )  
IND. CODE CHS. 8-1-8.4 AND 8-1-39. )

CAUSE NO. 45612

APPROVED: APR 20 2022

ORDER OF THE COMMISSION

Presiding Officers:  
Sarah E. Freeman, Commissioner  
Loraine L. Seyfried, Chief Administrative Law Judge

On September 10, 2021, Southern Indiana Gas and Electric Company d/b/a CenterPoint Energy Indiana South (“Petitioner” or “CEI South”) filed its petition and case-in-chief with the Indiana Utility Regulatory Commission (“Commission”) requesting, among other things, authorizations and approvals for the following: (1) a certificate of public convenience and necessity (“CPCN”) for certain natural gas transmission, distribution, and storage projects (and costs thereof) to allow compliance with federally mandated requirements (“Compliance Projects”); (2) Petitioner’s five-year plan for transmission, distribution, and storage improvements pursuant to Ind. Code ch. 8-1-39 (“TDSIC Plan”); (3) TDSIC treatment as provided in Ind. Code ch. 8-1-39 for the natural gas transmission, distribution, and storage improvements (and the costs thereof) set forth in Petitioner’s TDSIC Plan; (4) use of its rate adjustment mechanism for recovery of certain costs for the Compliance Projects and TDSIC Plan and deferral of remaining costs (“CSIA”); and (5) other related ratemaking relief and tariff proposals.

A Petition to Intervene was filed by Citizens Action Coalition of Indiana, Inc. (“CAC”), which was granted by the Presiding Officers in an October 6, 2021 Docket Entry.

On December 2, 2021, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed its direct testimony and exhibits constituting its case-in-chief. On December 22, 2021, CEI South filed its rebuttal testimony.

An evidentiary hearing was held in this matter on January 19, 2022, at 10:30 a.m., in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, the prefiled evidence of CEI South and the OUCC was admitted into the record without objection.

Based upon the applicable law and evidence presented, the Commission finds:

**1. Notice and Commission Jurisdiction.** Notice of the hearing in this Cause was given and published by the Commission as required by law. Petitioner is a public utility as that term is defined in Ind. Code § 8-1-2-1(a) and an energy utility as defined in Ind. Code § 8-1-8.4-3. Under Ind. Code ch. 8-1-8.4 (“Compliance Statute”), the Commission has authority to issue a CPCN and to approve cost recovery for projects necessary to comply with federally mandated requirements. Under Ind. Code §§ 8-1-39-10 and 8-1-39-11, the Commission has jurisdiction over a public utility’s plan for eligible transmission, distribution, and storage improvements, including targeted economic development (“TED”) projects and extension of gas service in rural areas. Under the Compliance Statute, Ind. Code ch. 8-1-39 (“TDSIC Statute”), and Ind. Code § 8-1-2-42, the Commission has authority over certain changes to CEI South’s rates and charges. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

**2. Petitioner’s Characteristics.** Petitioner is an Indiana operating public utility incorporated under the laws of the State of Indiana. Petitioner has its principal office at 211 N.W. Riverside Drive, Evansville, Indiana. Petitioner has charter power and authority to engage in, and is engaged in, the business of rendering gas distribution service within the State of Indiana under indeterminate permits, franchises, and necessity certificates heretofore duly acquired. Petitioner owns, operates, manages, and controls, among other things, plant, property, equipment, and

facilities, which are used and useful for the production, storage, transmission, distribution, and furnishing of gas utility service to approximately 114,000 customers in southwestern Indiana.

**3. Requested Relief.** By its Petition, CEI South requests the following relief:

(1) Issuance of a CPCN for the Compliance Projects (and approval of associated costs) designed both to improve the safety, reliability, and integrity of Petitioner's transmission and distribution pipeline systems and to allow compliance with federally mandated requirements;

(2) Approval of Petitioner's five-year TDSIC Plan (and any Compliance Projects, in the event and to the extent the Commission concludes that any such project does not meet the requirements of Ind. Code ch. 8-1-8.4);

(3) Authorization of TDSIC treatment as provided in Ind. Code Ch. 8-1-39 for natural gas transmission, distribution, and storage improvements (and the costs thereof) set forth in Petitioner's TDSIC Plan;

(4) Approval of the use of Petitioner's CSIA rate adjustment mechanism for timely recovery of 80% of the approved federally mandated costs of the Compliance Projects and approved capital expenditures and TDSIC costs of the TDSIC Plan, including financing costs incurred during construction;

(5) Authorization of the deferral of 20% of the approved federally mandated costs for the Compliance Projects and approved capital expenditures and TDSIC costs for the TDSIC Plan, and interim deferrals of such costs, until such costs are reflected in Petitioner's retail rates; and

(6) Approval of other related ratemaking relief and tariff proposals.

**4. Evidence Presented.**

**A. CEI South's Case-in-Chief.** Richard C. Leger, Vice President of Operations for the Indiana and Ohio natural gas service territories for CenterPoint Energy, Inc., the ultimate parent company of CEI South, testified that CEI South's proposal as designed will facilitate compliance with regulations, as well as improve public safety and reliability. He testified the proposal falls into three broad categories: (1) compliance projects undertaken to meet transmission integrity management program ("TIMP"), distribution integrity management program ("DIMP"), and storage integrity management program ("SIMP") mandates; (2) additional programs that have been identified that should be undertaken to improve system safety and reliability; and (3) programs that support economic development. Mr. Leger explained CEI South is seeking approval in this case of both its Compliance Projects and CEI South's TDSIC Plan projects ("TDSIC Projects"). He testified the federally mandated costs associated with the Compliance Projects, and approved capital expenditures, and TDSIC costs associated with the TDSIC Plan would be reflected in CEI South's existing CSIA mechanism.

Mr. Leger testified CEI South is undertaking the Compliance Projects to allow compliance with Pipeline and Hazardous Materials Safety Administration (“PHMSA”) regulations, which are “federally mandated requirements” under Ind. Code § 8-1-8.4-5. Mr. Leger testified that CEI South chose to seek relief for the Compliance Projects under the Compliance Statute because they are mandatory and including them within the TDSIC Plan would suggest that they are open to judgment and debate as to necessity. He testified the proposed Compliance Projects also improve public safety and system reliability, as replacing older facilities or modifying pipelines to facilitate more comprehensive and effective testing and assessment of their condition improves safety and reliability over time.

Mr. Leger also testified regarding how the proposed Compliance and TDSIC Projects are beneficial to customers. He testified these investments will provide benefits to Petitioner’s customers, including: (1) prioritized actions to mitigate risks; (2) allowing advance notice to cities and customers through planning; (3) use of a systematic approach with these programs to spread costs over a planned period of time so that the resulting customer bill impacts are implemented gradually over time; (4) job creation at a time when economic growth is highly desirable; (5) a safe and reliable system serves existing customers better and is needed to obtain new business; (6) long-term reduced construction costs; and (7) reduced methane emissions, which improves the environment and may reduce costs linked to greenhouse gas regulations. Mr. Leger described the economic benefits derived from the planned investments and the importance of these investments. He testified that job creation and extension of infrastructure to serve customers in rural areas so that they may enjoy the benefits of low-cost gas are key benefits resulting from the TDSIC Statute.

Mr. Leger concluded that CEI South requests the Commission find that: (1) public convenience and necessity require that it proceed with the Compliance Projects and TDSIC Plan proposed in this Cause, and (2) CEI South should be allowed to continue to use the CSIA mechanism to provide timely recovery of 80% of the costs incurred. Mr. Leger testified, as part of its review in this proceeding, the Commission should also determine that CEI South has provided a best estimate of the costs for projects included in the five-year TDSIC Plan and that the TDSIC Projects provide incremental benefits, such as ensuring the safe and reliable provision of services to customers, that justify the costs. He testified the Commission should also determine that the Compliance Projects allow for compliance with federal mandates and benefits such as ensuring the safe and reliable provision of services to customers.

Steven A. Hoover, Director of Gas Engineering, summarized CEI South’s Compliance Projects and TDSIC Plan. Mr. Hoover testified the Compliance Projects in this Cause consist of the Transmission Modernization (“TMOD”) Project, the Distribution Modernization (“DMOD”) Project, the Bare Steel and Cast Iron (“BSCI”) Replacement Project, and the Storage Modernization (“SMOD”) Project. Each project includes multiple work orders, which are specific, defined scopes of work to mitigate an identified risk. Table SAH-1 in Mr. Hoover’s testimony set forth CEI South’s Compliance Project estimated investment amounts by year for the period 2022–2026. This table showed a total of \$230.38 million in investments for all Compliance Projects over the five-year period. Mr. Hoover described each of the TMOD, DMOD, BSCI, and SMOD Compliance Projects and the individual project categories included within each.

With respect to CEI South’s TDSIC Plan, Mr. Hoover testified the TDSIC Plan consists of: (1) work orders designed to maintain or enhance the safety and reliability of the natural gas infrastructure (the “safety and reliability project”); (2) work orders required to relocate and ensure the safety of gas infrastructure due to state or municipal road, drainage, or other public work (the “public improvement project”); (3) work orders to support the extension of natural gas energy to residential areas currently without access to natural gas (the “rural extension project”); and (4) work orders to support TED (the “TED project”). Table SAH-5 in Mr. Hoover’s testimony set forth CEI South’s TDSIC Plan estimated costs by year for the period 2022–2026. This table showed a total of \$49.45 million in investments for all TDSIC Projects over the five-year period. Mr. Hoover described each of the TDSIC Projects and the associated work orders, along with the individual benefits associated with each project category.

Mr. Hoover also discussed the capital investment planning and cost estimating processes associated with the Compliance Projects and the TDSIC Plan. He testified CEI South employs a standardized, robust planning and budgeting process that engages stakeholders from integrity management, field operations, fleet, facilities, finance, and engineering to develop and maintain the capital investment plan, which includes the Compliance and TDSIC Projects. Mr. Hoover also provided an in-depth description of the methodology CEI South used to develop the cost estimates for the work orders that make up the Compliance and TDSIC Projects in this Cause. He explained that projects planned to be completed in the first year were designed to an Association for the Advancement of Cost Engineering (“AACE”) Class 2 cost estimate criteria and the remaining projects were designed to an AACE Class 4 estimate criteria. Mr. Hoover testified this level of detail is consistent with the “best estimate” requirements of the TDSIC Statute. He testified CEI South also engaged external engineering firms to assist in the development of some of the cost estimates.

Mr. Hoover discussed the concepts of escalation and contingency and explained how these costs were incorporated into the cost estimates. With respect to escalation, Mr. Hoover testified CEI South used an escalation factor of 2.4% per year starting in 2023 to account for inflation of material, labor, and services costs. With respect to contingency, Mr. Hoover testified appropriate levels of contingencies were added to each project cost estimate depending on the completeness of the work scope and detailed engineering and complexity of the individual project. He testified it is important to include contingency in cost estimates to provide accurate and complete estimates, noting it is a common estimating practice to include both contingency and the application of class estimate ranges.

Mr. Hoover explained how the eligible TDSIC projects are justified by the incremental benefits attributable to the TDSIC Plan. He testified the total estimated cost of the safety and reliability project is \$37 million. He stated the two storage field compressor installations account for approximately 39% of the estimated costs, which are necessary to provide redundancy to existing decades-old compression equipment. He further testified the Vanderburgh Industrial Park to U.S. 41 pipeline project directly supports growth in the park and development along the U.S. 41 corridor north of Evansville. He testified that beyond these larger work orders, the TDSIC Plan provides multiple safety, reliability, and economic benefits to employees, customers, and the communities CEI South serves.

Mr. Hoover explained how Petitioner uses an advanced hydraulic modeling application to identify and prioritize work orders for the safety and reliability projects that are necessary to address current or projected (within the next five years) reliability issues primarily reflected by system pressure or capacity limitations. He testified these projects: (1) ensure the general safety of customers by providing an energy source for space heat and/or the generation of electricity to meet human needs; (2) ensure adequate gas pressure and supplies are available for existing commercial and industrial customer process or production needs, general demand growth from existing customers, and demand from new customers; and (3) minimize the potential for gas system outages caused by low gas pressures or insufficient gas quantities, which negatively impact human needs and businesses' ability to produce products. He testified that without these projects, there is a likelihood that reliability will suffer. Mr. Hoover cautioned that gas system outages resulting from inadequate supply or low pressure can directly impact critical human needs services—space heat, electric generation, etc.—or significantly impair commercial and industrial production and the economy.

Mr. Hoover also described the benefits associated with the public improvement projects, rural extension projects, and TED projects included in the TDSIC Plan. He testified, however, that in his judgment, the incremental benefits from the larger TDSIC Plan work orders alone justify the costs of CEI South's TDSIC Plan. Mr. Hoover also summarized the benefits associated with CEI South's Compliance Projects. He testified every work order included in this Cause is necessary to support compliance with pipeline safety regulations and will provide reliability and safety benefits to CEI South's customers, employees, and the public in the vicinity of the projects and assets.

Adam M. Gilles, Regional Operations Director, testified regarding Petitioner's proposed Compliance Projects. Mr. Gilles summarized the federal regulations causing the need for Petitioner's Compliance Projects. He provided a chronological history of the federal mandates associated with pipeline safety regulations, and the significant changes that have been made to these regulations since 2002. He explained CEI South developed Compliance Programs to allow Petitioner to comply with these federally mandated pipeline safety regulations, including TIMP, DIMP, SIMP, Safety Management Systems ("SMS"), and other assorted pipeline safety rules. He testified that under these programs, CEI South developed the TMOD, DMOD, BSCI, and SMOD Compliance Projects to allow CEI South to comply with these federally mandated pipeline safety regulations.

Mr. Gilles testified the Compliance Projects and their underlying work orders are related to direct or indirect compliance with requirements imposed on CEI South by the federal government in connection with regulations concerning the integrity, safety, or reliable operation of transmission or distribution pipeline facilities. Mr. Gilles explained how the Compliance Project work orders are identified and prioritized to comply with federal regulations and updated based upon ongoing risk assessments. Finally, Mr. Gilles briefly summarized future potential compliance obligations.

Brittany A. Fleig, Manager of Regulatory Reporting, testified regarding the calculation of the revenue requirement and accounting treatment related to CEI South's Compliance Projects and TDSIC Plan. Ms. Fleig testified the Compliance Statute allows for timely recovery of 80% of the approved federally mandated costs through a periodic retail rate adjustment mechanism. She

testified CEI South proposes to include these costs in the Compliance Component portion of the CSIA, with the remaining 20% deferred and recovered by CEI South as part of its next general base rate case. She further testified the TDSIC Statute provides for timely recovery of 80% of the approved capital expenditures and TDSIC costs via a periodic, automatic adjustment of the utility's rates. Therefore, CEI South proposes to include the costs associated with the TDSIC Plan in the TDSIC Component portion of the CSIA, with the remaining 20% deferred and recovered by CEI South as part of its next general base rate case. Ms. Fleig also explained the CSIA will recover the remaining unrecovered balance of operation and maintenance ("O&M") expense that has been deferred for later recovery through the CSIA pursuant to the Commission's Order dated August 27, 2014, in consolidated Cause Nos. 44429 and 44430 ("44429/44430 Order").

Ms. Fleig testified regarding the accounting treatment CEI South is requesting in this case and explained how the proposed accounting treatment is authorized by the Compliance Statute and the TDSIC Statute. She testified the proposed weighted average cost of capital ("WACC") to be utilized for the Compliance Component will be the rate approved in CEI South's last base rate case, whereas the WACC utilized in the TDSIC Component will be based upon the most recent actual calendar-year-ended capital structure. Ms. Fleig also explained how the Compliance and TDSIC Component revenue requirements will be calculated. Noting the TDSIC Statute prohibits the Commission from approving a TDSIC that would result in an average aggregate increase in a public utility's total retail revenues of more than 2% in a 12-month period, she further testified CEI South does not expect to exceed the 2% cap during the life of the TDSIC Plan.

Katie J. Tieken, Director of Regulatory and Rates, discussed Petitioner's proposed ratemaking treatment, including cost allocation to customers, and the importance of continuing to use the CSIA mechanism. Ms. Tieken testified CEI South is proposing no change to the rate design approved in the 44429/44430 Order. She explained that customers receiving service under Rate 210 (Residential Sales Service) pay a fixed CSIA charge each month and customers receiving service under all other rate schedules pay a volumetric (per therm) CSIA rate. With respect to how CSIA costs are allocated to the rate schedules, Ms. Tieken testified that allocators for the TDSIC Component will be based on total revenues, and allocators for the Compliance Component will be based on the non-gas revenues from CEI South's most recently filed base rate case in Cause No. 45447. She testified this is consistent with CEI South's Settlement Agreement in Cause No. 45447.

Ms. Tieken also explained how CEI South will calculate the average aggregate increase in its total retail revenues attributable to the TDSIC Plan to ensure the TDSIC Plan will not result in an average aggregate increase of more than 2% in a 12-month period. She testified CEI South will provide a schedule comparing the increase in the TDSIC Component revenue requirement to the prior 12-month retail revenues for CEI South to ensure the amounts included for recovery in the CSIA adhere to the statutory requirements.

**B. OUCC's Case-in-Chief.** Heather R. Poole, Assistant Director of the Natural Gas Division for the OUCC, recommended approval of CEI South's use of the CSIA mechanism for timely recovery of 80% of the federally mandated costs of the Compliance Projects and the capital costs and TDSIC costs of the TDSIC Projects, including financing costs incurred during construction, with a few adjustments. Related to the Compliance Component, Ms. Poole agreed CEI South should use the WACC as approved in Petitioner's most recent base rate case,

Cause No. 45447, for its TDSIC 1 filing. However, in TDSIC 2 and each TDSIC filing going forward, she recommended CEI South update the WACC in the Compliance Component to the most recently approved WACC from the TDSIC Component. Further, related to the TDSIC Component, Ms. Poole recommended CEI South update its capital structure as of the date of valuation of the utility's expenditures for which it is seeking ratemaking treatment, with the cost of equity remaining constant from Petitioner's last general rate case in Cause No. 45447.

Ms. Poole testified she had no objection to CEI South's request to include the unrecovered deferred O&M expenses in the first two TDSIC filings. She also recommended CEI South continue providing the replacement program filings with each April TDSIC filing as approved in the Commission's January 14, 2015 Order in Cause No. 44429 TDSIC 1.

Regarding cost allocation, Ms. Poole recommended approval of the cost allocation factors proposed by CEI South, which she found to be consistent with the TDSIC Statute. However, related to rate design, Ms. Poole disagreed with CEI South's proposal to continue using the rate design approved in the 44429/44430 Order. She instead recommended Petitioner use the rate design approved in its last base rate case, Cause No. 45447, wherein residential customers would be charged a volumetric rate similar to the other rate classes. She testified CEI South performed a cost-of-service study in its last base rate case, which used a future test year, and therefore, that cost-of-service study is much newer than when the CSIA was approved in the 44429/44430 Order. Ms. Poole further explained that all residential customers benefit from new pipes, valves, and service lines, but those customers that use more gas should bear more of the cost of that new equipment. In addition, she testified that because CEI South moved closer to a straight-fixed-variable rate design in its last base rate case, setting a fixed monthly CSIA charge for residential customers results in inconsistent and inequitable ratemaking between rate classes.

Ms. Poole explained CEI South will calculate variances in each TDISC filing and agreed with Petitioner's proposal to use the first semi-annual tracker filing under this Cause to reconcile the over- or under-recovery variances from Cause No. 44429 TDSIC 13 and TDSIC 14. Finally, Ms. Poole recommended approval of Petitioner's proposed procedural schedule for future tracker filings.

Brien R. Krieger, Utility Analyst in the Natural Gas Division of the OUCC, testified regarding his analysis of CEI South's proposal. Mr. Krieger ultimately recommended the Commission issue a CPCN to CEI South for its federally mandated Compliance Projects and approve the TDSIC Projects within the TDSIC Plan because Petitioner has met the statutory requirements. However, he recommended contingency be removed from the Compliance and TDSIC Project estimates because both the TDSIC and Compliance Statutes allow recovery for actual costs greater than a best estimate. Alternatively, he recommended Petitioner be required to apply its proposed escalation factor to the cost estimates before contingency is applied. He explained this would prevent estimate escalation on cost unknowns that may not be needed and are difficult to track.

Like escalation on contingency, Mr. Krieger also recommended the Engineering & Supervisory/Administration & General overhead cost ("overhead costs") not be applied to contingency. He testified that although he did not object to Petitioner's proposed percentages, he



did object to the layering of overhead costs and escalation on top of contingency. Consequently, he recommended that if the Commission allows some contingency, the escalation percentage factor and the overhead percentage factor should not be applied to the allowed contingency. Finally, he also made recommendations regarding the information that should be required if CEI South proposes new Compliance or TDSIC projects during its plan update.

C. **CEI South's Rebuttal.** Ms. Tieken responded to Ms. Poole's recommendations regarding Petitioner's WACC and rate design. Ms. Tieken testified CEI South agrees with Ms. Poole's recommendation to update the WACC for the Compliance Component to the most recently approved WACC from the TDSIC Component. Further, she testified CEI South agrees to update the WACC for the TDSIC Component in each semi-annual TDSIC filing to reflect the WACC as of the date of valuation for CEI South's expenditures in each six-month filing.

Ms. Tieken disagreed with Ms. Poole's recommendation that CEI South collect the CSIA charge from residential customers via a volumetric rate instead of a fixed monthly charge. She testified the Commission previously authorized a fixed charge for the CSIA mechanism from residential customers in the 44429/44430 Order. She noted the Commission found in that Order (at p. 23) that "residential customers are a homogenous group with similar service requirements and for which the fixed costs associated with the receipt of gas service do not vary with the level of use. Thus, even without a cost-of-service study, [we] find that a fixed charge rate design for this type of infrastructure investment program adheres to accepted cost causation principles." Pet. Ex. 7 at p. 7.

Ms. Tieken further testified CEI South's proposed rate design is not inconsistent with the Settlement Agreement in its most recent rate case (Cause No. 45447), because neither the Settlement Agreement nor the Order in that Cause provided for an agreed upon rate design for the future CSIA mechanism. She also disagreed with Ms. Poole's contention that CEI South's customers will not be harmed by charging a volumetric rate. She testified a volumetric charge would increase residential customers' bills, especially in the winter months, compared to a fixed charge. She also testified CEI South's residential customers would lose the benefit of gradual movement towards a straight-fixed-variable rate design.

Mr. Hoover responded to Mr. Krieger's recommendations regarding Petitioner's cost estimates. Mr. Hoover disagreed with Mr. Krieger's recommendation to remove contingencies from all work order estimates. He testified contingencies are a valid component of project and work order estimates used throughout the utility industry—and in fact all industries—to account for uncertainties that are likely to occur. Mr. Hoover testified he does not believe a cost estimate without contingency would be considered a "best estimate" as required by the TDSIC Statute. Mr. Hoover responded to each of Mr. Krieger's arguments regarding contingency and explained why inclusion of contingency in the cost estimates is appropriate and consistent with other Commission cases and industry practice.

Mr. Hoover also disagreed with Mr. Krieger's recommendation to disallow escalation and overhead costs on contingencies. He testified it is industry practice to apply escalation to cost estimates with contingency built in and the AACE supports escalation of contingency. Mr. Hoover acknowledged the Commission disallowed escalation of contingency in *N. Ind. Pub. Serv. Co.*,

*LLC*, Cause No. 45183, pp. 14-15 (IURC Sept. 4, 2019) He testified, however, that he interpreted the Commission's Order to mean that because the Compliance Statute already includes a 25% allowance for cost exceedances, the utility's practice of escalating its cost estimates with contingency built in was not necessary or appropriate.

Mr. Hoover noted the utility's request in Cause No. 45183 included only Compliance Projects and the TDSIC Statute does not include a similar 25% allowance. Instead, the TDSIC Statute requires specific justification by the public utility and specific approval by the Commission for any actual capital expenditures and TDSIC costs that exceed the approved capital expenditures and TDSIC costs. He testified applying the Commission's justification in Cause No. 45183 to this Cause would produce an illogical result because cost estimating is performed the same way regardless of the statutory scheme under which the utility seeks cost recovery. Mr. Hoover testified that to adopt the Commission's logic in Cause No. 45183 would lead to utilities preparing capital cost estimates differently depending on the type of Commission proceeding. He testified this cannot be the Commission's intention and would be contrary to industry practice.

Mr. Hoover explained why he believes it is appropriate to escalate contingency costs for projects to be constructed in future years. He reiterated that both contingency and escalation are appropriate components of complete and accurate cost estimates. Mr. Hoover testified that based on his experience and familiarity with industry practice, exclusion of escalation of contingency would produce an unrealistically low overall cost of CEI South's Compliance Projects and TDSIC Plan. He testified that both the Commission and CEI South's stakeholders need a realistic cost to evaluate the overall appropriateness of CEI South's Compliance and TDSIC Projects.

## **5. Commission Discussion and Findings.**

**A. Statutory Requirements.** CEI South seeks relief in this proceeding pursuant to both the Compliance Statute and the TDSIC Statute.

The Compliance Statute requires an energy utility seeking to recover costs incurred to comply with federally mandated requirements to obtain a CPCN. Ind. Code § 8-1-8.4-6. A CPCN may be issued only if the Commission: (1) finds that the public convenience and necessity will be served by the proposed compliance project, (2) approves the projected federally mandated costs associated with the proposed compliance project, and (3) makes a finding on each of the factors set forth in Ind. Code § 8-1-8.4-6(b). Ind. Code § 8-1-8.4-7(b). A compliance project is defined as one undertaken by an energy utility related to the direct or indirect compliance by the energy utility with one or more federally mandated requirements. Ind. Code § 8-1-8.4-2(a). Federally mandated requirements include "[s]tandards or regulations concerning the integrity, safety, or reliable operation of: (A) transmission; or (B) distribution; pipeline facilities." Ind. Code § 8-1-8.4-5(5).

The TDSIC Statute permits a public utility to petition the Commission for approval of the utility's plan for eligible transmission, distribution, and storage system improvements ("eligible improvements"), which may include approval of a TED project. The Commission's order must include: (1) a finding of the best estimate of the cost of the eligible improvements included in the TDSIC plan; (2) a determination whether public convenience and necessity require or will require the eligible improvements included in the TSDISC plan; and (3) a determination whether the

estimated costs of the eligible improvements included in the TDSIC plan are justified by incremental benefits attributable to the plan. Ind. Code § 8-1-39-10(b). If the Commission determines that the TDSIC plan is reasonable, it shall approve the plan and authorize TDSIC treatment for the eligible improvements included in the plan. *Id.*

Like its proposal in Cause No. 44429, in this proceeding, CEI South proposes a comprehensive investment program that consists of two components: (1) projects to comply with federal pipeline safety mandates (i.e., Compliance Projects) and (2) transmission, distribution, and storage projects that facilitate the reliable and safe provision of gas service through system modernization, as well as service to rural areas (i.e., TDSIC Projects). Because Petitioner once again seeks relief under both the Compliance Statute and the TDSIC Statute, the Commission reviews the projects separately under the specific requirements of each statute.

**B. Petitioner's Compliance Projects.** As indicated above, the Compliance Statute defines a compliance project as a project that is: (1) undertaken by an energy utility and (2) related to the direct or indirect compliance by the energy utility with one or more federally mandated requirements. The term includes an addition; or an integrity, enhancement, or a replacement project; undertaken by an energy utility to comply with a federally mandated requirement described in Ind. Code § 8-1-8.4-5(5). Ind. Code § 8-1-8.4-2.

CEI South is an “energy utility” as that term is defined in Ind. Code § 8-1-2.5-2. Therefore, we must determine whether CEI South’s proposed Compliance Projects are necessary to comply directly or indirectly with a federally mandated requirement. The U.S. Department of Transportation (“DOT”) and PHMSA have enacted a series of regulations designed to promote the safe delivery of natural gas to customers and the safe storage of natural gas in underground facilities. As explained by CEI South witness Gilles, the DOT regulations and additional regulations imposed by PHMSA, require Petitioner to develop Compliance Programs to comply with federally mandated pipeline safety regulations, including the TIMP, DIMP, SIMP, SMS, and other assorted pipeline safety rules. Mr. Gilles testified that these regulations are all standards or regulations concerning the integrity, safety, or reliable operation of transmission, storage, or distribution facilities.

Mr. Gilles explained how the Compliance Programs resulted in the four Compliance Projects (TMOD, DMOD, BSCI, and SMOD) proposed in this Cause and how each of the Compliance Projects will allow CEI South to achieve compliance with the applicable federally mandated pipeline safety regulations. Mr. Gilles also described Petitioner’s process and modeling for identifying and prioritizing the individual projects to ensure compliance with the federally mandated requirements and to create a safer and more reliable system. He also described the process used to evaluate facility data and to support the process of identifying the necessary Compliance Projects.

CEI South witness Hoover described Petitioner’s four Compliance Projects and the work orders that make up each. OUCC witness Krieger testified concerning his review of the Compliance Projects and concluded that Petitioner’s proposed Compliance Projects are compliant with PHMSA requirements.

The Compliance Statute specifically defines a federally mandated requirement as including projects required to comply with standards or regulations concerning the integrity, safety, or reliable operation of transmission or distribution pipeline facilities. Ind. Code § 8-1-8.4-5(5). The evidence demonstrates the Compliance Projects are driven by the need to comply with regulations concerning the integrity, safety, and reliability of Petitioner's transmission and distribution pipeline facilities. Petitioner provided a sufficient description of the federally mandated requirements, and no party disputed the proposed Compliance Projects are federally mandated. We therefore find that the Compliance Projects constitute compliance projects within the meaning of the Compliance Statute.

**1. Public Convenience and Necessity.** CEI South's witnesses Hoover and Gilles explained the benefits to customers and the public in general from the Compliance Projects. Mr. Hoover explained replacement of certain assets—bare steel, cast-iron mains and services, legacy plastic mains and services, legacy steel mains, and ineffectively coated steel service lines—reduces: (1) leaks in CEI South's system; (2) the occurrence of future leaks and leak repair work; and (3) interruptions, inconveniences, and disturbances to customers. He further testified the remediation of issues such as exposures, shallow pipe, and the replacement of obsolete equipment reduces risk and enhances the safety and reliability of the pipeline system. Additionally, eliminating low-pressure systems allows for enhanced system reliability and the use of modern materials to improve pipeline safety. As to the enhancements to CEI South's transmission system, Mr. Hoover testified that making pipelines capable of assessment by in-line inspection technology, pressure testing, or equipping valves with remote controls allows CEI South to ensure its transmission pipelines continue to operate safely and reliably. Likewise, enhancements to gas storage field wells and gas processing equipment improve the safety and reliability of this important gas supply management asset.

Based on the evidence presented, we find that the Compliance Projects will support the safe and reliable operation of Petitioner's transmission and distribution pipeline facilities. Customers will directly benefit from these investments through the increased safety and reliability of Petitioner's utility system. Accordingly, we find the Compliance Projects promote the public convenience and necessity.

**2. Compliance Project Costs.** Petitioner presented detailed cost estimates to support the projected costs of the Compliance Projects. CEI South witness Hoover described the investment planning and cost estimating process CEI South used to develop the cost estimates presented in this Cause. Mr. Hoover testified that preliminary estimates incorporate the major cost components and assumptions around those components related to routes, construction environment, labor availability, and material quantities and costs. Contingency is also typically incorporated to account for unknown factors. He stated that detailed engineering is performed six to 18 months ahead of planned construction and is intended to eliminate most assumptions and incorporate more certainty in the cost estimates. He explained CEI South's estimates are in alignment with these detailed engineering practices and estimated consistent with the recommended practices of AACE.

OUCC witness Krieger did not dispute the process Petitioner used to develop its cost estimates or the underlying reasonableness of Petitioner's Compliance Project costs generally.

However, Mr. Krieger did take issue with how Petitioner factored contingency, overhead costs, and escalation into its cost estimates. Mr. Krieger recommended CEI South remove project contingencies contained in both the Compliance Projects and TDSIC Projects. Alternatively, if the Commission should allow some contingency, Mr. Krieger recommended CEI South should apply its proposed escalation factor and overhead cost percentages to project estimates before contingency is applied.

The issues Mr. Krieger raised with respect to contingency, overhead costs, and escalation apply to both the Compliance Project and TDSIC Project costs included in Petitioner's CSIA. Thus, we will discuss these issues further below in our discussion concerning the "best estimate" for the TDSIC Projects.

**3. Section 6(b) Factors.** Ind. Code § 8-1-8.4-7(b)(3) requires the Commission to make findings on each of the factors set forth in Ind. Code § 8-1-8.4-6(b), which include: (1) a description of the federally mandated requirements, (2) a description of the projected federally mandated costs, (3) a description of how the proposed compliance project allows the energy utility to comply with the federally mandated requirements, (4) alternative plans that demonstrate the proposed project is reasonable and necessary, (5) information as to whether the proposed project will extend the utility's useful life and the value, and (6) any other factors the Commission considers relevant.

With respect to the first two factors, we find, as more fully explained above and below, that CEI South has adequately described the federally mandated requirements and the projected costs. With respect to the third factor, no party disputed that the Compliance Projects are necessary to comply with federal mandates. Petitioner's witness Gilles testified that completing the Compliance Projects—the TMOD, SMOD, DMOD, and BSCI Projects—and the work orders underlying those projects all relate to CEI South's compliance with applicable federal mandated pipeline safety regulations. Mr. Gilles also explained how each of the proposed Compliance Projects will allow Petitioner to achieve compliance with federal DOT and PHMSA requirements. Thus, we find the evidence demonstrates the Compliance Projects will enable Petitioner to comply with the applicable federally mandated requirements.

As to the fourth factor, Mr. Gilles testified CEI South must complete the Compliance Projects to satisfy federally mandated pipeline safety regulations with the purpose of ensuring the safe and reliable operation of transmission, storage, and distribution facilities. He testified there is no option to the TMOD, SMOD, DMOD, and BSCI Compliance Projects and CEI South must implement each of these projects to comply with TIMP, DIMP, and SIMP. Mr. Gilles explained that CEI South used a risk modeling approach to compliance that examined assessment alternatives and alternative preventive and mitigating measures. He further explained there are ultimately no feasible alternatives to the Compliance Projects because certain of the federal requirements are prescriptive in nature, which does not allow for alternative methods of compliance; any alternatives to risk-based requirements would be either outdated, higher risk, or would not achieve compliance.

Regarding the fifth factor, Mr. Gilles testified the Compliance Projects will extend the life of existing assets by replacement or improvement. He testified, for example, a TMOD work order

that replaces a segment of pipeline found to contain a defect during an in-line inspection with a new segment of pipe, extends the life of both the pipeline and the greater pipeline system. Thus, the evidence demonstrates the useful lives of some of Petitioner's existing natural gas transmission and distribution pipeline systems will be extended. Such extension will further enhance Petitioner's ability to provide safe and reliable gas service in compliance with federal regulations.

Finally, as to other factors the Commission considers relevant, we find it is appropriate to consider the Compliance Statute's requirement to provide specific justification for actual costs incurred greater than 25% of the approved estimated cost when determining the estimated cost of the Compliance Projects to approve. Our consideration of this factor is discussed further below in our discussion of the "best estimate."

**4. Issuance of CPCN.** Based on the foregoing findings, we grant Petitioner a CPCN for the Compliance Projects. The Compliance Projects will serve the public convenience and necessity of Petitioner's customers, as well as others located near Petitioner's infrastructure, and are necessary to comply with federal mandates. As a result, the Compliance Projects qualify for cost recovery under the Compliance Statute. The amount of cost recovery Petitioner is authorized to recover is discussed in the TDSIC portion of this Order below where we address the appropriateness of including contingency, overhead costs, and escalation in the cost estimates.

**C. Petitioner's TDSIC Plan and Projects.** Section 10 of the TDSIC Statute permits a public utility to seek approval of a plan for eligible improvements, including TED projects. Eligible improvements include new or replacement gas transmission, distribution, or storage utility projects that are: (1) undertaken for purposes of safety, reliability, system modernization, or economic development; (2) not included in the public utility's rate base; and (3) described in the utility's TDSIC plan and approved by the Commission. Ind. Code § 8-1-39-2(a). They also include projects that do not include specific locations or an exact number of inspections, repairs, or replacements and projects involving advanced technology investments to support modernization of a transmission, distribution, or storage system. Ind. Code § 8-1-39-2(b).

CEI South's TDSIC Plan includes an estimated \$49.45 million of capital improvement projects over calendar years 2022 through 2026. Petitioner's witness Hoover testified the TDSIC Plan consists of work orders: (1) designed to maintain or enhance the safety and reliability of the natural gas infrastructure; (2) required to relocate and ensure the safety of gas infrastructure due to state or municipal road, drainage, or other public work; (3) to support the extension of natural gas energy to residential areas currently without access to natural gas; and (4) to support targeted economic development through the construction of natural gas transmission or distribution infrastructure. None of the projects are currently included in Petitioner's rate base. Mr. Hoover also explained that CEI South manages actual recurring capital investments during each year, relative to the budget of projected recurring investments, with the understanding that investment priorities emerge during the year that may not be specifically identified in the TDSIC Plan.

No party took issue with Petitioner's proposed TDSIC Projects. OUCC witness Krieger reviewed Petitioner's proposed TDSIC Plan and underlying projects to confirm the Plan and projects met the requirements of the TDSIC Statute. Mr. Krieger testified his analysis indicates

Petitioner has provided justification for its TDSIC Projects, including those specifically designed for capacity additions.

In this Cause, CEI South seeks recovery of both Compliance Projects under Ind. Code ch. 8-1-8.4 and its TDSIC Projects under Ind. Code ch. 8-1-39. Because we have specifically found that the Compliance Projects are accurately categorized as necessary to allow compliance with federal requirements, we fully expect those projects to remain Compliance Projects and absent a change in federal requirements, not shifted to the TDSIC Plan. Similarly, we expect TDSIC Projects to remain in the TDSIC Plan and not shifted to the list of Compliance Projects.

Based on the evidence presented in this proceeding, we find the projects described in Petitioner's TDSIC Plan meet the criteria established in the TDSIC Statute and that the projects are being undertaken for the purpose of safety, reliability, system modernization, and support of economic development. We further find the proposed TDSIC projects are eligible improvements as defined in Ind. Code § 8-1-39-2 and were not included in CEI South's most recent rate case.

**1. Best Cost Estimate.** Ind. Code § 8-1-39-10(b)(1) requires that an order approving a TDSIC plan must include “[a] finding of the best estimate of the cost of the eligible improvements included in the plan.”

Like the cost estimates for the proposed Compliance Projects, Petitioner's witness Hoover described the capital investment planning and cost estimating process Petitioner used to develop the cost estimates included in the TDSIC Plan. He also noted CEI South engaged external engineering firms to assist in the development of some of the cost estimates. Mr. Hoover testified that projects planned to be completed in the first year of the Plan were designed to a AACE Class 2 cost estimate criteria and the remaining projects were designed to AACE Class 4 estimate criteria. Mr. Hoover testified this level of detail is consistent with the “best estimate” requirement of the TDSIC Statute.

Mr. Hoover testified that Petitioner included contingency (based on the completeness of the work scope, detailed engineering, and project complexity) in the project cost estimates to provide complete and fully transparent estimates. He testified it is common estimating practice to include contingency to address items that cannot be quantified at the current level of project definition but will be necessary to complete the project. Consequently, including contingency enhances confidence that the project final cost will be within the upper and lower limits of the estimate range. Mr. Hoover also testified Petitioner applied a 2.4% escalation factor to reflect inflation beginning in 2023.

OUC witness Krieger reviewed the detailed project cost estimates and the cost inputs relied upon by Petitioner for inclusion in the TDSIC Plan. Mr. Krieger acknowledged Petitioner provided detailed work order level estimates as part of its TDSIC Plan but, like the Compliance Projects, he took issue with the way Petitioner built contingency, overhead costs, and escalation amounts into the individual work orders. He recommended all contingency dollars be removed from the project estimates. However, if the Commission allows some contingency, he recommended Petitioner's proposed overhead costs and escalation percentages be applied to Petitioner's project estimate after removing any allowed contingency dollars.

As an initial matter, we note that both the TDSIC and Compliance Statutes require the Commission to make a finding regarding the estimated costs of the projects. Ind. Code § 8-1-39-(10)(b)(2) and Ind. Code § 8-1-8.4-7(b)(2) and (3). The goal in receiving the best possible cost estimate from the utility is to allow the Commission to fully understand the potential cost of the project when determining whether to approve the project. Best estimates are not by definition the same as actual project costs that will be recovered. Instead, best estimates are only estimates of what actual costs should be expected and allowed to be recovered absent further proof of reasonableness. In essence, best estimates of the costs are provided to the Commission for purposes of allowing a comparison of the estimated costs to the benefits associated with the projects and informing the Commission's determination of whether to pre-approve the projects.

Mr. Krieger offered several arguments for why he believes contingencies should be removed from the project estimates. However, in other cases filed under the TDSIC and Compliance Statutes, the Commission has consistently found the inclusion of contingency to be appropriate and rejected similar arguments made by the OUCC.<sup>1</sup> *See e.g., N. Ind. Pub. Serv. Co.*, Cause No. 45330 at p. 23 (IURC July 22, 2020) (finding inclusion of contingency is consistent with the AACE system and industry practice and establishes the best cost estimate required by the TDSIC Statute); *N. Ind. Pub. Serv. Co.*, Cause No. 45183 at p. 19 (IURC Sept. 4, 2019) (finding the inclusion of contingency in cost estimates is appropriate) ("*NIPSCO*"). CEI South adequately responded to the OUCC's arguments, and no party took issue with the amount of contingency included in CEI South's estimated costs. Therefore, we find CEI South's inclusion of contingency in its cost estimates, which is consistent with the AACE system and industry practice, to be reasonable and appropriate in establishing a best cost estimate of what the project is expected to cost.

Mr. Krieger also recommended that if the Commission allows the inclusion of contingency, then escalation and overhead costs should be applied to the base project cost estimate without the inclusion of contingency. In support of his recommendation, Mr. Krieger cited to the Commission's Order in *NIPSCO*, wherein the Commission disallowed the application of escalation to contingency when approving a project under the Compliance Statute, which only requires specific justification of cost increases greater than 25%. The OUCC argues that because the Commission disallowed the application of escalation to contingency under the Compliance Statute and CEI South chose to combine its request for approval of Compliance and TDSIC Projects in one case, then the disallowance should apply to both Petitioner's Compliance and TDSIC Projects.

CEI South, on the other hand, argues that it is appropriate to apply escalation and overhead on top of contingency to provide a best estimate of the project costs. Mr. Hoover argued it would be illogical to apply the Commission's findings in *NIPSCO* in this Cause because Petitioner also seeks approval of TSDIC Projects in this Cause, and the TDSIC Statute, unlike the Compliance Statute, requires specific justification of any cost increases greater than the approved estimate. In addition, he argued that because cost estimating is performed in the same manner regardless of

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<sup>1</sup> In support of its position in its proposed order, the OUCC cites to *Ohio Valley Gas Corp.*, Cause No. 45400 (IURC December 16, 2020). However, in that case, the utility voluntarily agreed with the OUCC's recommendation to remove contingency from its cost estimates.



the statutory scheme for cost recovery, utilities should not be required to prepare different cost estimates depending on the recovery being sought.

As we explained above, because Petitioner seeks relief under both the Compliance Statute and the TDSIC Statute, the Commission reviews the projects separately under the specific requirements of each statute. CEI South is not seeking approval of its TDSIC Projects under the Compliance Statute or approval of its Compliance Projects under the TDSIC Statute.<sup>2</sup> Instead, CEI South has chosen to essentially consolidate what could have been filed as two separate proceedings into a single proceeding—most likely to more easily include any Compliance Project that failed to satisfy the requirements of the Compliance Statute in the TDSIC Plan and because Petitioner uses the CSIA mechanism to track and recover costs for both the Compliance and TDSIC Projects. Consequently, it is not illogical that different requirements may apply to Petitioner's Compliance Projects than apply to its TDSIC Projects based on the applicable statutory requirements.

In *NIPSCO*, the Commission considered whether it was appropriate to include an escalation factor to a project's contingency. Recognizing that the Compliance Statute authorized the Commission to consider other factors, such as the rate impact to customers and that the inclusion of escalation on contingency further increases the spread between the estimated base project costs and the 25% threshold at which the utility is required to provide specific justification, the Commission found it unreasonable to layer multiple tiers of risk mitigation and cost recovery. *NIPSCO* at pp. 19-20. In this case, CEI South proposes Compliance Projects estimated to cost \$49.45 million over five years, which includes contingency. While Petitioner argued that it is standard industry practice supported by the AACE system to include escalation on contingency, these are the same arguments made by the utility in *NIPSCO*. Petitioner offered no other evidence to justify including escalation on contingency amounts given the relatively significant rate impact resulting from approving the Compliance Projects and the Compliance Statute's 25% threshold for requiring specific justification of cost overruns. Therefore, we find the inclusion of escalation on contingency amounts for Petitioner's Compliance Projects to be unnecessary, and it is not approved.

As for Petitioner's TDSIC Projects, the TDSIC Statute does not include a 25% threshold before costs above the approved estimate must be specifically justified and can be recovered. Instead, Ind. Code § 8-1-39-9(g) requires the utility to specifically justify any amount incurred over the approved estimated cost before it may be recovered. Because the Commission must consider the expected cost of a project in determining whether to preapprove the project, we find the inclusion of escalation on contingency to be reasonable when specific justification is required for any amount above the approved best estimate before the utility may recover the costs. Therefore, we find inclusion of escalation on the contingency amounts for CEI South's TDSIC Projects is reasonable, and it is approved.

Finally, regarding CEI South's inclusion of proposed overhead costs on contingency, we note that unlike escalation percentages, overhead costs are indirect actual costs associated with

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<sup>2</sup> In its Petition, CEI South did request the Commission consider any Compliance Project that did not satisfy the requirements of the Compliance Statute be considered under the TDSIC Statute. However, all proposed Compliance Projects were found to comply with the Compliance Statute.

executing capital construction work. Because they are related to, and a portion of the actual project cost, we find the inclusion of overhead costs on base project costs with contingency is appropriate and reasonable for both Petitioner's Compliance and TDSIC Projects.

Accordingly, we approve Petitioner's estimated costs for its Compliance and TDSIC Projects, except for the escalation costs on contingency amounts included in its Compliance Projects. Within 30 days of this Order, Petitioner shall file under this Cause revised cost estimates that excludes escalation on the contingency amounts included in its Compliance Projects.

**2. Public Convenience and Necessity.** Ind. Code § 8-1-39-10(b)(2) requires that an order on a TDSIC plan must include “[a] determination whether public convenience and necessity require or will require the eligible improvements included in the plan.”

Petitioner's witness Leger identified benefits to customers from the TDSIC Plan, including: (1) improved safety and reliability; (2) improved project planning, which leads to decreased construction costs, more gradual customer bill impacts, and the ability to avoid potential interruptions in service; (3) job creation and economic development; and (4) improved environment from reductions in methane emissions due to leaks. In addition to the many TDSIC Projects that primarily support safety, reliability, and modernization of Petitioner's utility system, CEI South included funding for anticipated rural extensions and TED projects. These projects benefit customers through increased economic development and the extension of natural gas utility service into rural areas that do not currently have access to this type of service.

No evidence was offered demonstrating that the proposed TDSIC Projects were unnecessary for the continued safe and reliable service to customers, or that the public convenience and necessity did not, or would not, require the TDSIC investments to be made. The OUCC also did not take issue with Petitioner's proposed rural extensions or TED projects but noted Petitioner did not provide margin tests for these projects. OUCC witness Krieger recommended Petitioner be required to provide the 20-year margin tests for rural extension projects or TED projects if these projects come to fruition. On rebuttal, Petitioner's witness Hoover agreed with Mr. Krieger's recommendation.

Based on the evidence presented, we find Petitioner has sufficiently supported that the investments described in its TDSIC Plan are reasonably necessary for CEI South to continue providing safe and reliable retail natural gas service to the customers in its service territory. Additionally, the extension of natural gas service to rural areas will allow additional Indiana residents the opportunity to receive such service. The evidence demonstrates the TDSIC Plan is consistent with the legislative intent of the TDSIC Statute for utilities to invest in eligible transmission, distribution, and storage system improvements for the purpose of safety, reliability, system modernization, and economic development. Therefore, we find that the public convenience and necessity requires or will require the eligible improvements included in the TDSIC Plan.

**3. Incremental Benefits Attributable to the TDSIC Plans.** Ind. Code § 8-1-39-10(b)(3) requires the Commission to determine whether the estimated costs of the eligible improvements included in the TDSIC Plan are justified by the incremental benefits attributable to the TDSIC Plan.

Petitioner's witness Hoover explained how the estimated cost of the eligible improvements are justified by the incremental benefits associated with Petitioner's TDSIC Plan. He testified the estimated cost of the TDSIC Projects is \$49.45 million, of which \$37 million is associated with the safety and reliability project. He testified the two storage field compressor installations for system reliability account for approximately 39% of the system improvement estimated costs and are necessary to provide redundancy to existing decades-old compression equipment. He further testified the Vanderburgh Industrial Park to U.S. 41 pipeline project directly supports growth in the park and development along the U.S. 41 corridor north of Evansville. Beyond these larger work orders, Mr. Hoover testified the TDSIC Plan provides multiple safety, reliability, and economic benefits to employees, customers, and the communities CEI South serves. He stated the safety and reliability benefits from the TDSIC projects come from ensuring the provision of adequate pressure and gas supply to both existing and new customers. He stated the public improvement projects mitigate risks to safety and reliability through the relocation of gas system assets and minimizing the potential for construction damage.

The OUCC agreed that the proposed TDSIC Projects provide incremental benefits to Petitioner's customers through enhanced safety and reliability. OUCC witness Krieger testified he considered if Petitioner's proposed improvement projects were for purposes of safety, reliability, or system modernization with established incremental benefits, and his analysis determined Petitioner's TDSIC Projects met the requirements of Ind. Code ch. 8-1-39.

Based on the evidence presented, we find Petitioner has sufficiently demonstrated that the estimated costs of the TDSIC Projects are justified by the incremental benefits attributable to the TDSIC Plan. The evidence demonstrates the majority of Petitioner's TDSIC Plan investments are for safety and reliability. In determining the eligible improvements to be included in the TDSIC Plan, Petitioner used an advanced hydraulic modeling application to identify and prioritize projects needed to address current or projected reliability issues primarily reflected by system pressure or capacity limitations. In addition, the evidence shows Petitioner's TDSIC Plan will enhance customer and employee safety, avoid outages, preserve and improve operational integrity, and support economic development.

**4. Reasonableness of TDSIC Plan.** Based upon our review of the evidence, the Commission finds Petitioner's TDSIC Plan appropriately and reasonably addresses Petitioner's aging infrastructure through projects intended to enhance, improve, and replace system assets for the provision of safe and reliable natural gas service, as well as the cost-effective extension of service to rural areas. These are activities from which customers are reasonably expected to benefit. The OUCC generally recommended approval of the TDSIC Plan, subject to certain recommendations as discussed in this Order. Accordingly, we find Petitioner's TDSIC Plan to be reasonable, and it is approved as set forth in this Order.

**D. Updates to the TDSIC Plan.** Ind. Code § 8-1-39-9(a) requires that a public utility update its TDSIC plan at least annually. Consistent with its previous CSIA mechanism, Petitioner proposes to make its TDSIC filings every six months, specifically on October 1 and April 1 each year. The October filing will provide project detail similar to Year 1 of the TDSIC Plan for the next upcoming year of the TDSIC Plan.

The OUCC recommended, for the update process, CEI South should also provide: (1) reasons substantiating new estimates if a project's new estimate exceeds an approved best estimate by greater than 20% or \$100,000; (2) reasons substantiating actual costs incurred if a project's actual cost exceeds the approved best estimate by greater than 20% or \$100,000; (3) and a margin test for each individual rural extension and TED project.

CEI South witness Hoover testified on rebuttal that Petitioner accepts the OUCC's recommendations. Thus, we find Petitioner's update process should include this information. We also find it reasonable that in updating the TDSIC Plan, Petitioner shall continue to refresh its prioritization analyses as new information about the system becomes available. As the factors driving the analyses change, the risk profile of Petitioner's system will also change, which will require adjustments to equipment and project ranking.

With respect to stakeholder engagement and the information to be provided for each tracker filing, we find Petitioner should continue using the process and providing the information required in the semi-annual tracker filings under Cause No. 44429. This process has worked well in CEI South's previous TDSIC filings, and we find that this process will reasonably balance the needs of Petitioner for investment recovery confidence and customers for prudent investment assurance.

**E. CSIA Mechanism.** Consistent with the 44429/44430 Order, Petitioner proposes to continue using the CSIA mechanism to recover 80% of the costs associated with the Compliance and TDSIC Projects. The OUCC generally recommended approval of CEI South's proposed CSIA mechanism, but recommended adjustments to Petitioner's capital structure and, with respect to rate design, recommended residential customers be charged a volumetric rate similar to other rate classes.

For the reasons discussed below, we authorize Petitioner to continue using the CSIA mechanism established in the 44429/44430 Order for recovery of 80% of the Compliance and TDSIC Project costs. Petitioner shall also file with the Commission's Natural Gas Division a revised tariff sheet consistent with the format set forth on Petitioner's Exhibit 5, Attachment KJT-1 and our findings below.

**1. Customer Class Revenue Allocation.** Pursuant to the TDSIC Statute, Petitioner proposes to use the revenue allocation percentages approved by the Commission in its most recent base rate case. Petitioner's witness Tieken testified that the allocators for the TDSIC Component of the CSIA mechanism will be based on total revenues and allocators for the Compliance Component will be based on the non-gas revenues from CEI South's most recently filed base rate case, Cause No. 45447. Ms. Tieken further testified that the stipulated allocators for each CSIA component will be used for all TDSIC or Compliance Projects included in CEI South's next CSIA, as well as TDSIC and Compliance Projects added after the CSIA has been approved.

No party took issue with Petitioner's proposed allocation percentages. OUCC witness Poole testified that Petitioner's proposed customer class cost allocation complies with the TDSIC and Compliance Statutes and the Commission's Order in Cause No. 45447. Based upon our review

of the evidence, we find that the allocation methodology proposed by the Petitioner is a reasonable approach consistent with applicable statutes and is approved for the CSIA.

**2. Rate Design.** Petitioner proposes to use the same rate design previously approved in the 44429/44430 Order, including, that CSIA costs be recovered from residential customers via a fixed monthly charge and from all other customers using a volumetric charge. The OUCC disagreed with Petitioner's proposal to collect CSIA costs from residential customers via a fixed monthly charge, and OUCC witness Poole recommended Petitioner collect the CSIA charge from residential customers via a volumetric rate instead. Ms. Poole testified Petitioner's proposal is inconsistent with the Settlement Agreement approved in Cause No. 45447 and treats residential customers differently than other customer classes. She argued residential customers who use more gas or have more demand on the system should bear more costs of the pipes, valves, and service lines.

On rebuttal, Ms. Tieken cited language from the Commission's 44429/44430 Order to support that applying a fixed charge to residential customers is consistent with the move towards straight-fixed-variable rate design. She also disagreed that Petitioner's proposal is inconsistent with the Settlement Agreement approved in Cause No. 45447. Further, Ms. Tieken testified a volumetric charge would increase residential customers' bills, especially in winter months, and CEI South's residential customers would lose the benefit of gradual movement towards a straight-fixed-variable rate design.

In the 44429/44430 Order (at p.23), we authorized Petitioner to recover its CSIA charges for residential customers via a fixed charge, finding such rate design was consistent with the Commission's objective that utilities gradually move the fixed costs to serve residential customers into a fixed charge. When that Order was issued, Petitioner's fixed charge for residential customers was \$11.00 as approved in Cause No. 43839. However, in Petitioner's most recent base rate case, Cause No. 45447, the Commission approved a significant increase of \$5.50 in the monthly residential fixed charge to \$16.50. *S. Ind. Gas and Elec. Co.*, Cause No. 45447 at pp. 72-76 (IURC Oct. 6, 2021). If we were to approve Petitioner's proposal in this Cause to continue recovering the CSIA charges from residential customers via the fixed charge, it would result in even higher fixed charges, which customers would be unable to avoid. We continue to support utilities moving towards a straight-fixed-variable rate design. However, given the recent increase in Petitioner's monthly fixed charge for residential customers, we are concerned that further increasing that fixed charge will be burdensome to residential customers. Therefore, we find that Petitioner shall recover its CSIA charge via a volumetric charge, as it does for all other customers, where residential customers have some opportunity to avoid utility charges, such as through energy efficiency and thermostat adjustments.

**3. Adjustment to Net Operating Income.** Petitioner requests authority to increase the net operating income approved in Petitioner's last base rate case to include the earnings associated with the TDSIC filings for purposes of the Ind. Code § 8-1-2-42(g)(3) earnings test.

Ind. Code §§ 8-1-39-13(b) and 8-1-8.4-7(c)(1) require an adjustment to a public utility's authorized return for purposes of Ind. Code § 8-1-2-42(g)(3) to reflect incremental earnings from

the TDSIC Plans and Compliance Projects. Based on our review of these statutes and the evidence in this Cause, we find Petitioner's request to increase the authorized net operating income approved in Petitioner's last base rate case to include earnings associated with the TDSIC filings for purposes of the Ind. Code § 8-1-2-42(g)(3) earnings test is reasonable and consistent with the TDSIC and Compliance Statutes, and it is approved.

**4. Determination of Pretax Return.** For the Compliance Projects' revenue requirement component of the CSIA, Petitioner proposed to use the WACC approved in Cause No. 45447. OUCC witness Poole agreed CEI South should use the approved WACC from Cause No. 45447 for its first TDSIC filing but recommended CEI South update the WACC for the most recently approved WACC from the TDSIC Component in the second TDSIC filing and in each TDSIC filing going forward. On rebuttal, CEI South witness Tieken agreed with Ms. Poole's recommendation and testified Petitioner will update its WACC for the Compliance Component to the most recently approved WACC from the TDSIC Component, which is consistent with CEI South's initial 7-year TDSIC filings in Cause No. 44429.

For the TDSIC Plan's revenue requirement component, Petitioner proposed to use a WACC based upon the most recent actual calendar-year-ended capital structure. The OUCC recommended CEI South update its capital structure as of the date of valuation of the utility's expenditures for which it is seeking ratemaking treatment, with the cost of equity remaining constant from Petitioner's last general rate case. On rebuttal, Ms. Tieken agreed with the OUCC's recommendation and testified CEI South will update the WACC for the TDSIC Component in each semi-annual TDSIC filing to reflect the WACC as of the date of valuation for CEI South's expenditures in each six-month filing, which is consistent with CEI South's initial 7-year TDSIC filings in Cause No. 44429.

Apart from the OUCC's recommendations regarding WACC, the parties did not oppose Petitioner's proposed cost of capital calculation to be used for the CSIA, including agreement on the use of the cost of equity from Petitioner's last base rate case to calculate CSIA costs. Based on the evidence presented, we find Petitioner's proposed cost of capital calculation as modified on rebuttal is reasonable, and it is approved.

**F. Accounting Authority.** Petitioner proposes to defer for subsequent recovery as part of its next general base rate case 20% of the revenue requirement of the Compliance and TDSIC Projects, including financing costs on projects under construction, post in-service carrying costs, deferred O&M expenses, projected incremental depreciation, and property tax expenses.

Ind. Code § 8-1-8.4-7(c)(2) provides that "[t]wenty percent (20%) of approved federally mandated costs, including depreciation, allowance for funds used during construction, and post in service carrying costs, based on the overall cost of capital most recently approved by the commission, shall be deferred and recovered by the energy utility as part of the next general rate case filed by the energy utility with the commission." No party opposed Petitioner's proposed methodology for deferring 20% of the Compliance Projects. Based on our review of the evidence, we find that 20% of the federally mandated costs associated with the Compliance Projects shall be

deferred in accordance with Ind. Code § 8-1-8.4-7(c)(2) consistent with the methodology as described by Petitioner's witness Fleig.

Ind. Code § 8-1-39-9(c) provides that a "public utility that recovers capital expenditures and TDSIC costs under subsection (a) shall defer the remaining twenty percent (20%) of approved capital expenditures and TDSIC costs, including, depreciation, allowance for funds used during construction, and post in service carrying costs, and shall recover those capital expenditures and TDSIC costs as part of the next general rate case that the public utility files with the commission." No party opposed Petitioner's methodology for deferring 20% of the TDSIC costs. Based on the evidence presented, we find that 20% of the TDSIC costs shall be deferred in accordance with Ind. Code § 8-1-39-9(c) consistent with the methodology described by Petitioner's witness Fleig.

Ms. Fleig testified the 44429/44330 Order authorized Petitioner to defer and subsequently recover incremental O&M and depreciation expense on an interim basis prior to inclusion in the CSIA. Petitioner deferred 80% of the depreciation expenses from the Compliance and TDSIC Projects from their in-service dates until depreciation expense is included for recovery in the CSIA. Ms. Fleig explained that O&M expenses related to the Compliance Projects were charged to Federal Energy Regulatory Commission Account 182.3, and Petitioner proposes to recover the remaining unrecovered balance of O&M expense that has been deferred for later recovery through the CSIA pursuant to the 44429/44430 Order. Therefore, CEI South proposes to include recovery of unrecovered deferred O&M expense from Cause No. 44429 in its next two TDSIC filings.

The OUCC recommended approval of CEI South's request to include the unrecovered deferred O&M expenses in its first two TDSIC filings. In the 44429/44430 Order, the Commission found Petitioner's proposal to defer these amounts reasonable and that Petitioner should be permitted to defer and subsequently recover these costs through the CSIA mechanism. Thus, we find Petitioner's proposal to include the unrecovered deferred O&M expense in its next two TDSIC filings is reasonable, consistent with the 44429/44430 Order, and is approved.

**G. Timing of TDSIC Filings.** Ind. Code § 8-1-39-9(f) states that "[a] public utility may file a petition under this section not more than one (1) time every six (6) months." Petitioner's witness Tieken testified that Petitioner proposes to file its petition and case-in-chief supporting the CSIA by October 1 and April 1 each year with new rates becoming effective for the six-month periods starting on January 1 and July 1, respectively. She testified the petition filed on October 1 will be based on the combined federally mandated costs of the Compliance Projects and capital expenditures and TDSIC costs of the TDSIC Plan through the previous six-month period ended June 30. Similarly, the petition filed on April 1 will be based on the combined federally mandated costs of the Compliance Projects and capital expenditures and TDSIC costs through the previous six-month period ended December 31. Ms. Tieken also testified that variances will be reconciled in each semi-annual TDSIC filing.

We find that Petitioner's proposed timeline for its TDSIC filings is reasonable and consistent with Ind. Code § 8-1-39-9(f), and it is approved. CEI South's semi-annual filings following the issuance of this Order shall be filed under Cause No. 45612 TDSIC X.

**6. Confidentiality.** CEI South filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information on September 10, 2021, which was supported by affidavits showing that certain information to be submitted to the Commission contained trade secrets as defined by Ind. Code § 24-2-3-2. In a September 21, 2021 Docket Entry, the Presiding Officers found such information to be preliminarily confidential, after which such information was submitted under seal. After reviewing the information, we find this information qualifies as confidential trade secret information. This information shall be held as confidential and protected from public access and disclosure by the Commission and is exempted from the public access requirements contained in Ind. Code §§ 8-1-2-29 and 5-14-3-4.

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

1. The Compliance Projects are projects undertaken to comply with federally mandated requirements within the meaning of Ind. Code ch. 8-1-8.4 and Petitioner is granted a certificate of public convenience and necessity for the Compliance Projects as set forth in this Order.

2. CEI South's 2022–2026 TDSIC Plan is reasonable, and it is approved as set forth in this Order.

3. Within 30 days of this Order, Petitioner shall file under this Cause revised cost estimates of its Compliance and TDSIC Projects that exclude escalation costs on the contingency amounts for its Compliance Projects.

4. Petitioner is authorized to implement its CSIA Rate Schedule as set forth on Petitioner's Exhibit 5, Attachment KJT-1 to effectuate the timely recovery of 80% of eligible and approved capital expenditures and the TDSIC and Compliance Project costs, including financing costs incurred during construction, except that Petitioner shall assess the CSIA as a volumetric charge to all customer classes.

5. Petitioner is authorized to defer post-in-service TDSIC and Compliance Project costs, including carrying costs based on the WACC approved herein, on an interim basis until such costs are recovered for ratemaking purposes through Petitioner's proposed CSIA mechanism or otherwise included for recovery in its base rates through its next general rate case.

6. Petitioner is authorized to include recovery of unrecovered deferred O&M expenses from Cause No. 44429 in its next two TDSIC filings.

7. Petitioner is authorized to defer 20% of eligible and approved capital expenditures and TDSIC Project costs under Ind. Code § 8-1-39-9(c). Petitioner is also authorized to recover the deferred capital expenditures and TDSIC costs as part of Petitioner's next general rate case.

8. Petitioner is authorized to defer 20% of eligible and approved capital expenditures and Compliance Project costs under Ind. Code § 8-1-8.4-7(c)(2). Petitioner is also authorized to



recover the deferred capital expenditures and Compliance Project costs as part of Petitioner's next general rate case.

9. Petitioner is authorized to adjust its net operating income to reflect any approved earnings associated with the CSIA for purposes of Ind. Code § 8-1-2-42(g)(3) pursuant to Ind. Code § 8-1-39-13(b) and Ind. Code § 8-1-8.4-7.

10. Petitioner's proposed process for updating the TDSIC Plan in future TDSIC proceedings under Cause No. 45612 TDSIC X is approved as set forth herein. Petitioner shall file its first TDSIC on or before October 1, 2022, unless Petitioner otherwise notifies the Commission.

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

**HUSTON, FREEMAN, KREVDA, AND OBER CONCUR; ZIEGNER ABSENT:**

**APPROVED: APR 20 2022**

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

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**Dana Kosco**  
**Secretary of the Commission**