

September 30, 2024

COMMENTS OF CITIZENS ACTION COALITION

Citizens Action Coalition of Indiana, Inc. (“CAC”), appreciates this opportunity to provide the following comments on Citizens Energy Group’s (“CEG”) proposal to provide up to 25 million gallons of water per day (“MGPD”) to Lebanon Utilities through a wholesale agreement (hereafter, “CEG’s proposal”) by making infrastructure investments funded through loans from the Indiana Drinking Water State Revolving Fund for bonds of up to \$700 million.

Inappropriate Use of Drinking Water Funds

CAC is strongly opposed to CEG’s proposal because it would use federal and state funding that has been appropriated for purposes such as improving drinking water quality and instead divert it to subsidize the costs of water infrastructure intended to serve large commercial and industrial use at the Limitless Exploration / Advanced Pace (“LEAP”) Innovation District. Despite its “Limitless” moniker, the growth of LEAP has ironically been significantly limited by the lack of any additional available water to serve water-intensive large commercial and industrial operations it was intended to attract.

According to reporting by the Indiana Capital Chronicle,¹ the need for this water in Lebanon is because Eli Lilly’s new manufacturing facilities at LEAP have already exhausted supply, preventing LEAP from obtaining additional customers until additional water is available. Inexplicably, rather than try to attract such prospective commercial and industrial customer expansion to Indianapolis to benefit its own customers and service territory, CEG is now in cahoots with Lebanon to tap into Indianapolis’ water supply and send it – and the economic development – out of the city to Lebanon. While this may be politically expedient for CEG, it is not in the best interest of its customers or a wise use of state and federal spending.

This proposal boils down to diverting public funds meant to help provide clean drinking water for *people* so a few companies looking to build factories in a relative water desert can financially benefit. The state and federal government should use this funding instead to improve water quality for residents and improve utility affordability for existing customers. It is grossly inappropriate to use these funds for an economic development project that is rapidly turning into a financial boondoggle.² It is particularly disturbing that the water utility serving Indianapolis would be on board with using up limited public funding, not to the benefit of the community it serves, but rather to undermine our own community by diverting this investment to Lebanon.

Beyond our opposition to the nature of this project, the problems with this proposal are numerous. CEG has not demonstrated that it has the extra capacity to enter into this wholesale contract with Lebanon Utilities without jeopardizing the long-term water availability to its own

¹ <https://indianacapitalchronicle.com/2024/09/19/citizens-energy-lebanon-to-tap-drinking-water-fund-for-700-million-supply-project/>

² <https://www.citact.org/news/cac-report-leap-threatens-hoosier-water-wallets>

customers and future growth. CEG has not provided any details on how it would protect existing customers to ensure that they would not bear any costs associated with this proposal. CEG has not shown why this proposal is in the best interest of its customers and the community it serves. CEG has not explained where the water would be withdrawn from and which treatment facilities would be used. It has not identified with any specificity the planned investments associated with its proposal. It has not identified the number, location, or details of the investments in “water mains, booster stations, and tanks, and treatment plant upgrades.” In short, this proposal is not transparent, lacks adequate information, has not allowed for adequate public comment, is a dubious use of public funding, and could put current customers at risk.

Ineligibility

CEG’s proposal has not complied with the requirements identified in the DWSRF Guidelines Document. For example, the Guidelines require that “[a] copy of the PER [Preliminary Engineering Report] and/or documents reasonably describing a Proposed Project will be available to all attendees at the Public Hearing” (Sec. 6-7, p. 10 of 17). No such documents reasonably describing the CEG proposal were made available to attendees at the Public Hearing. The Preliminary Engineering Report has also not been provided. Instead, only a single-page, high-level summary was provided online and to Public Hearing attendees. The little information provided to date does not meet the required standard of “reasonably describing a Proposed Project,” as further detailed herein.

CEG claims that “documents describing the proposed project are available for public viewing from 09/15/24 through 09/24/24 or online at www.citizensenergygroup.com/citizens-lebanonwatersupplyprogram.” However, it does not appear such documents were ever posted online. The only information CAC has been able to obtain on this proposal to date, other than what has been reported in the media, is CEG’s one-page, high-level summary—not “documents” that actually detail the CEG proposal.

After the Public Meeting, the above link was broken, depriving the public of the opportunity to obtain even the one-page summary, even though CEG was required to accept public comment through October 1, 2024. The very short window of time to view the limited information either in person or online and taking down the summary document prior to the conclusion of the public comment period deprived the public of meaningful opportunity to review and comment on CEG’s proposal.

In short, CEG has not provided meaningful transparency on its proposal, depriving the public the opportunity to provide meaningful input, and has therefore not complied with the requirements of obtaining this funding.

Grossly Insufficient Opportunity for Public Comment

CAC expresses its strong disappointment with the manner in which CEG conducted its September 25, 2024 Public Hearing, which in many ways was inconsistent with how public hearings on utility matters are typically conducted in Indiana. First, only a single, poorly noticed public meeting was held, which is an insufficient opportunity for comment on a project of this magnitude that could cost up to \$700 million.

Second, the meeting was held at 8:00 a.m. on a Wednesday, a bizarre time to schedule a public meeting unless CEG was intentionally hoping to discourage public attendance by making it inconvenient, as evidenced by the poor attendance at the Public Hearing. The public meeting was held at CEG's facilities rather than a neutral site. Public Hearings are more typically held at schools, universities, or libraries and are scheduled for the evening so that they are more accessible to the public.

Third, CEG's notice of the public hearing was misleading. CEG suggested that "[m]embers of the public will have the opportunity to ask questions and provide comments at the hearing. Participation is welcomed and encouraged." Those who attended the meeting experienced the exact opposite. CEG representatives refused to answer questions or provide any additional information about CEG's proposal. CEG arbitrarily limited public comment to two minutes despite only a small handful of individuals attending. Only a single member of the public who is not a CAC employee testified at the public hearing. Yet, when that individual's comments reached two minutes, he was immediately cut off by CEG and not even allowed to finish his sentence. When he attempted to do so, he was immediately physically confronted by law enforcement and forced away from the microphone. This hostile and aggressive response by CEG to a member of the public providing comment *after CEG specifically invited comment and said that participation would be welcomed and encouraged* is particularly egregious.

Fourth, CEG's notice claimed that "Citizens will present the recommend plan," yet no such presentation occurred. A CEG representative read verbatim the one-page summary document, but no presentation was made and no new information shared with the public.

Inconsistency with CEG Mission and Values

CEG's proposal, and the way it has been communicated to the public and its customers, is patently inconsistent with the values it claims to adhere to. With respect to Integrity, CEG claims, "We conduct our business with honesty, transparency, and accountability," yet it has provided a dearth of information on its proposal and has not identified any accountability mechanisms to protect existing consumers. As to Collaboration, CEG says, "We engage with our employees, customers, and communities for the betterment and success of all," but the hostile Public Hearing demonstrated that CEG is not interested in obtaining feedback from stakeholders and community members about this proposal. And, in reference to Stewardship, CEG asserts that, "We invest in solutions and infrastructure to deliver long-term value and improve the quality of life for our customers and our communities," but it has provided no evidence about how diverting 25 MGD to a new wholesale customer outside of Indianapolis would be sustainable and consistent with prudent stewardship of our critical drinking water resources.

Questions

During and after the Public Hearing, CEG committed to answering questions it received. Accordingly, CAC requests complete answers to the following questions:

1. Please provide all documents detailing the CEG Proposal, including detailed narratives of specific proposed investments, analysis completed in support, financial documentation detailing the estimated costs, maps identifying the locations of each major investment, and timelines for completing each stage of the project.
2. Please provide the Preliminary Engineering Report for the CEG proposal.

3. Please describe the feasible alternatives that were evaluated.
4. Please provide the wholesale contract between CEG and Lebanon Utilities for water service associated with CEG's proposal.
5. Please identify all rates and charges that would be paid by Lebanon Utilities for water under CEG's proposal. Please explain whether 100% of the net costs associated with the CEG proposal would be allocated exclusively to Lebanon Utilities.
6. Please explain in detail how Citizens Water will protect its current customers from bearing any costs associated with water infrastructure to provide service to Lebanon Utilities. Include a description of the accounting and ratemaking mechanisms that would be implemented to effectuate this.
7. Please explain in detail the potential financial impacts to CEG of taking on an additional \$700 million in loans to finance the CEG proposal. Could this debt erode CEG's financial metrics, credit quality, or otherwise impact the ability of CEG to access low-cost financing to serve its existing customers in the future?
8. Please explain whether obtaining a loan for up to \$700 million for this project could negatively impact the ability of CEG to obtain additional loans from Indiana's Drinking Water State Revolving Fund over the next five years for projects to benefit its existing customers.
9. Please describe the risks to CEG should LEAP not be successful in adding any additional businesses and should Lebanon Utilities' water needs be much less than anticipated. For example, if CEG expands its facilities to be able to provide 25 MGD but only 1 MGD is ultimately needed by Lebanon Utilities, who would bear the financial risks and pay for the infrastructure costs for the investments made that would no longer be needed?
10. Please explain why Citizens Water is expanding current treatment capacity of 256 MGD to nearly 300 MGD (a difference of nearly 44 MGD) when it claims its proposal is to provide only up to 25 MGD to Lebanon Utilities. Explain and identify with specificity where the expansion of current treatment capacity would occur, and by how many MGD, for each treatment facility that is being constructed or expanded.
11. Please provide the hyperlinks where the public can access Citizens Water's five most recent annual reviews and updates to its strategic water resource plan. If no hyperlink is available, please provide a PDF copy of each document to CAC and explain why CEG does not have this information readily available on its website.
12. For each of CEG's 10 water treatment plants, please identify the current daily average and maximum water treated and what the proposed daily average and maximum water treated would be if CEG supplies Lebanon Utilities with 25 MGD.
13. Please identify with specificity the location and quantity of additional water withdrawals planned by CEG to be able to provide up to 25 MGD to Lebanon Utilities.
14. Please provide all documents, analyses, evaluations, reports, and results relied upon to determine that there are adequate water resources to provide an additional 25 MGD.

15. Please explain the extent to which providing 25 MGD to Lebanon Utilities could result in CEG not having adequate water resources to meet future customer needs in Indianapolis.
16. Please provide a description of all loans obtained by CEG from the Indiana Drinking Water State Revolving Fund for each year of the past five years.
17. Please provide the Environmental Assessment and / or Environmental Impact Statement of the CEG proposal. Explain whether a Finding of No Significant Impact has been made.

Respectfully submitted,



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