ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF THE CITY OF AUBURN, INDIANA BY ITS MUNICIPALLY-OWNED WATER UTILITY FOR APPROVAL OF A NEW SCHEDULE OF RATES AND CHARGES FOR WATER SERVICE AND AUTHORITY TO ISSUE WATERWORKS REVENUE BONDS	)	**CAUSE NO. 44985**
	)	**APPROVED:** APR 18 2018

ORDER OF THE COMMISSION

Presiding Officers:
Sarah E. Freeman, Commissioner
David E. Veleta, Senior Administrative Law Judge

On September 14, 2017, the City of Auburn, Indiana, by its municipally-owned water utility ("Petitioner" or "Auburn"), filed a verified Petition with the Indiana Utility Regulatory Commission ("Commission") in this matter requesting approval of a new schedule of rates and charges for water service and authority to issue waterworks revenue bonds. On September 15, 2017, Auburn filed the direct testimony and exhibits of Norman E. Yoder, Gregory T. Guerrettaz, and Randy L. Harvey.

On January 17, 2018, the Indiana Office of Utility Consumer Counselor ("OUCC") filed the direct testimony and exhibits of Jennifer L. Sisson, Carl N. Seals, Edward R. Kaufman, and Margaret A. Stull.

On February 13, 2018, Auburn and the OUCC filed a Joint Stipulation and Settlement Agreement (the "Settlement Agreement"). Auburn filed its evidence supporting the Settlement Agreement on February 13, 2018, and the OUCC filed its evidence supporting the Settlement Agreement on February 16, 2018.

On February 27, 2018, the Commission conducted an Evidentiary Hearing beginning at 9:30 am in Room 222, 101 West Washington Street, Indianapolis, Indiana. The parties appeared and participated in the hearing by counsel.

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

1. **Notice and Jurisdiction.** Notice of the public hearings conducted by the Commission in this Cause was given and published as required by law. Auburn owns and operates a water utility system and furnishes water service to the public, and is a municipally owned utility within the meaning of Ind. Code §§ 8-1-2-1(h) and 8-1.5-1-10. Auburn's rates and charges for water service are subject to the jurisdiction of the Commission in the manner and to the extent provided by Ind. Code § 8-1.5-3-8(f). Auburn's request for approval to issue long-term bonds is subject to the jurisdiction of the Commission under Ind. Code § 8-1.5-2-19. Therefore, the Commission has jurisdiction over Auburn and the subject matter of this Cause.

2. **Petitioner's Characteristics.** The City of Auburn is a municipality located in DeKalb County, Indiana. Petitioner owns and operates a municipal water utility which furnishes water service to approximately 5,170 residential, commercial, and industrial customers in and around the City of Auburn.

3. **Existing Rates, Test Year, and Relief Requested.** Auburn's current schedule of rates and charges was placed into effect on October 14, 1999 following the Commission's Order in Cause No. 41414 on September 22, 1999. The test year used in this Cause to determine Auburn's actual and pro forma operating revenues, expenses and operating income under its present and proposed rates was the 12 month period ended December 31, 2016, adjusted for changes that are fixed, known, and measurable for ratemaking purposes and that occur within 12 months following the end of the test year. We find that such test year, as adjusted, is sufficiently representative of Auburn's normal utility operations to provide reliable data for ratemaking purposes.

In its Petition and case-in-chief, Auburn proposed an across-the-board increase of 50.00% in the recurring monthly rates and charges of its municipal water utility. Petitioner also requested authority to impose a 15% surcharge for users of the water utility located outside Auburn's municipal limits. Additionally, Petitioner sought Commission approval to issue new waterworks revenue bonds in an amount not to exceed $3,360,000.

4. **Summary of the Evidence.**

A. Auburn's Direct Evidence. Norman E. Yoder, Mayor of Auburn and President of its Board of Public Works and Safety (the "Board"), provided an overview of Auburn's case-in-chief and discussed the relief it was requesting in this Cause. Mr. Yoder described the organizational structure of Auburn and said that the general supervisory powers and responsibility for the water utility rest with the Board. Mr. Yoder explained that, based upon the recommendations of the Board as to the appropriate level of rates and charges for service, the Common Council reviews and approves the rates and charges of the water utility, subject to the approval of the Commission. The Common Council also is authorized to issue and sell bonds for the purpose of obtaining funds for the construction, extension, improvement, repair, or replacement of utility plant, subject to the Commission's approval of the Bond Ordinance.

Mr. Yoder stated that on September 5, 2017, Auburn's Common Council adopted Ordinance No. 2017-09 (the "Rate Ordinance"), which authorizes an increase in the water utility's rates and charges, subject to the Commission's approval. The Rate Ordinance was based upon the recommendation of the Board in its Resolution 07-2017, adopted on August 10, 2017. Mr. Yoder also sponsored a Bond Ordinance passed by the Common Council on September 5, 2017, which, as explained in the Petition, would authorize the issuance of waterworks revenue bonds in an amount not to exceed $3,360,000, upon approval of the Commission in this Cause.

Mr. Yoder explained Utility Superintendent Randy Harvey had prepared a five-year capital improvement plan that Auburn proposed to be funded from its annual operating revenue from rates and charges. Furthermore, Mr. Yoder stated Auburn had retained Gregory T. Guerrettaz of Financial Solutions Group, Inc. to serve as a financial consultant, prepare a Rate Study, and provide options related to the financing of proposed capital improvements.

Gregory T. Guerrettaz provided testimony regarding the Rate Study dated August 9, 2017, which was prepared by Financial Services Group, Inc., and attached to his testimony as Attachment GTG-1. Mr. Guerrettaz explained that the test year of the 12 months ended December 31, 2016, in addition to the fixed, known, and measurable adjustments expected to occur within 12 months thereafter, is representative of Auburn's operations for ratemaking purposes. Mr. Guerrettaz also explained the structure and sections of the Rate Study.

Mr. Guerrettaz then described the pro forma adjustments to cash operating expenses contained in the Rate Study, beginning with salary and wages. Mr. Guerrettaz explained the $68,134 adjustment reflects current positions and pay rates as set forth in the 2017 Salary Ordinance, as well as additional positions shared with other municipal departments. Mr. Guerrettaz reviewed other adjustments, including payroll taxes, PERF, employer's share of health insurance, Utility Receipts Tax, PILOT amount, and rate case expense. Mr. Guerrettaz reported that the test year cash operating expense has been increased by a total amount of $190,553 to arrive at pro forma annual cash operating expense of $2,637,715.

Mr. Guerrettaz next discussed the Rate Study's summarization of Auburn's capital improvement plan as proposed to be funded from bond proceeds, as well as the extensions and replacement plan ("E&R Plan"). Mr. Guerrettaz stated that the total annual requirement for the E&R Plan is $580,503, which is described more fully by Auburn witness Mr. Harvey. Mr. Guerrettaz also described the Rate Study's inclusion of the estimated total annual debt service requirement, in the amount of $383,190.

Mr. Guerrettaz also discussed the Common Council's decision to enact a 15% surcharge on customers located outside of Auburn. Mr. Guerrettaz said that while Auburn currently does not have different water rates and charges for inside versus outside the City customers, the Common Council authorized the proposed differential because the cost to run water lines outside the city boundaries far exceeds the in-city average cost.

Mr. Guerrettaz also stated that the issuance of revenue bonds, as set forth on Exhibit I to the Rate Study, is a reasonable method of financing the proposed capital projects. Exhibits H and K set forth the use of the bond proceeds, including the capital projects they will fund. Mr. Guerrettaz explained that the capital projects to be funded with the proceeds are reasonably necessary for the provision of adequate and efficient utility services, and the debt issuance is a reasonable method for financing such projects. Mr. Guerrettaz concluded that the proposed rates set forth in Exhibits L and M of the Rate Study are reasonable, just, non-discriminatory, and necessary to meet Auburn's projected revenue requirements.

Randy L. Harvey, Superintendent of the Auburn Water Utility, also testified in support of the relief requested by Auburn. In providing an overview of the Auburn water system, Mr. Harvey noted that Auburn's last general rate increase was in 1999. Mr. Harvey stated that as of December 2016, the water utility employed ten individuals, and served approximately 5,170 customers in and near the Auburn city limits, through approximately 104 miles of water main and three elevated tanks. Mr. Harvey testified that while the quality of potable water supplied by the utility is excellent, some of the pipes and water distribution lines that deliver water are in need of replacement. Mr. Harvey described

his concern with the age and condition of the utility's distribution network, including the necessary replacement of water mains, as well as the need to rehabilitate the Dusenberg Water Tower. Mr. Harvey also stated that installation of Advanced Metering Infrastructure ("AMI") is the third major capital improvement required.

Mr. Harvey summarized the five-year Capital Improvement Plan, which is attached as Exhibit K to the Rate Study (Attachment GTG-1). Mr. Harvey stated that the capital improvements proposed to be funded from the proceeds of the bond issuance totals $2,955,992, with additional projects of $2,902,515 to be funded from the annual operating revenue of the utility. This results in an average recommended level of the annual revenue requirement for extensions and replacements of $580,503. In Mr. Harvey's opinion, each project in the Capital Improvement Plan is necessary for the water utility to continue to provide reliable and quality service to its customers.

Mr. Harvey provided further detail regarding the various components of the proposed extensions and replacements. Mr. Harvey supported the need to replace three service trucks and one SUV for service calls, meter reads, and emergencies, a new dump truck for excavation and repair work, and a backhoe replacement for pipe, valve, hydrant, and service line/meter pit maintenance and installations. Mr. Harvey testified that the parking lot at the North Street Maintenance/Office Facility and Water Treatment Plan, as well as entry doors on the building, need to be replaced for safety purposes. Additionally, Mr. Harvey outlined the need for a cleaning and inspection of the North Water Tower and the Fulton Water Tower. Other projects of note include the replacement of the North Dewey Street water main, rebuild and replacement of the filtering media in the pressure filters in the North and South treatment plants, installation of variable frequency drives on all pump motors at its wells and treatment plants, and replacement of well #10.

Mr. Harvey also discussed the three major capital projects that will be financed with the proceeds of the bond issuance. The water meter upgrade project will replace water meters with AMI devices, and the Auburn water utility proposes to fund 50% of the cost, with the other 50% being funded by the wastewater utility. Mr. Harvey testified regarding the second project, the replacement of the southwest water main, and the third project, the rehabilitation of the Dusenberg Tower. Mr. Harvey reiterated that all of the projects in the Capital Improvement Plan are necessary, and that the use of bond proceeds is appropriate.

B. OUCC's Evidence. Jennifer L. Sisson, Utility Analyst II in the OUCC's Water/Wastewater Division, presented the results of the OUCC's overall analysis of Auburn's proposed rate increase. Ms. Sisson testified that the OUCC proposes a decrease to pro forma operating expenses, proposes that Auburn use Account 462.1 to record its public fire protection revenues, and proposes an overall rate increase of 41.64%.

Specifically, Ms. Sisson testified that she accepted all of Auburn's proposed operating expense adjustments in the total amount of $173,894. However, Ms. Sisson proposed a decrease of operating expenses to $45,658 due to the removal of ten transactions that she determined were capital in nature, resulting in an adjustment to test year operating expenses of $128,236. Ms. Sisson said these ten transactions represent costs that are capital in nature or, in the case of hydrants and meters, already have been included in Auburn's E&R revenue requirement. Ms. Sisson represented that Auburn expenses these transactions because they fall under a capitalization threshold of $5,000 used generally

by municipalities. Ms. Sisson recommended a capitalization threshold of $1,000 be applied to Auburn's expenditures in this Cause to better balance the cost of maintaining capital assets with the need to reflect materially accurate utility plant balances.

Ms. Sisson stated the OUCC does not oppose Auburn's proposed E&R revenue requirement of $580,503, but indicated that the OUCC did not accept Auburn's proposed debt service revenue requirement, which is discussed further by OUCC witness Kaufman. Ms. Sisson also stated that $6,691 of metered hydrant water usage revenues should be included as a revenue requirement offset, as they should be properly classified as operating revenues subject to increase. Ms. Sisson also recommended adding miscellaneous revenues from non-recurring charges in the determination of operating revenues, including bad check fees, connection fees, and reconnection fees, totaling $80,361.

Finally, Ms. Sisson noted Auburn enters public fire protection revenues in the same accounts it uses to record its water revenues. Ms. Sisson recommended Auburn set up a separate account (Account 462.1) to record its public fire protection revenues.

Carl N. Seals, Utility Analyst in the OUCC's Water/Wastewater Division, testified regarding the capital improvement projects that Auburn has proposed. Mr. Seals stated that he met with Mr. Harvey and Clinton Sites, Auburn's Production Supervisor, on January 10, 2018 to visit Auburn's facilities and discuss its current operations and its Capital Improvement Plan.

Mr. Seals began his testimony by reviewing Auburn's characteristics, water storage capacities, and level of water loss. Mr. Seals next described the development of Auburn's Capital Improvement Plan, which was attached as Exhibit K to the Rate Report prepared by Financial Solutions Group, Inc. Mr. Seals said Auburn's plans consisted of five broad areas of capital improvements, covering Production and Treatment, Distribution System, Water Towers, Equipment and Vehicles, and Facility Maintenance. After enumerating the specific projects Auburn proposed in each category, and the cost support therefore in the total amount of $5,858,507, Mr. Seals agreed that the planned capital improvements appear to be reasonable and necessary for the continued provision of reliable service.

Mr. Seals also discussed Auburn's proposed change to its water service attachment fees for new customers. Mr. Seals testified that Auburn provided cost support for the proposed increase, and Mr. Seals concluded the proposed fees were cost-based and therefore reasonable. Mr. Seals recommended the Commission accept Auburn's Capital Improvement Plan for purposes of justifying its proposed E&R revenue requirement, authorizing its financing request, and approving the proposed water service attachment fees.

Edward R. Kaufman, Assistant Director in the OUCC's Water-Wastewater Division, provided testimony regarding debt issues. Mr. Kaufman explained that it is more appropriate for Auburn to use an average debt service, as opposed to the maximum combined debt service of $383,190, to determine its annual revenue requirements. Mr. Kaufman also stated that Auburn's proposed calculation of its annual debt service assumes its proposed debt will be issued on November 1, 2017, which would be unlikely. Mr. Kaufman's modifications resulted in an average debt service for the next five years of $322,494, a maximum debt service payment of $352,962, and a decrease in Auburn's borrowing authority by $30,000 to $3,330,000.

Mr. Kaufman also recommended that because the precise interest rates and annual debt service will not be known until Auburn's debt is issued, its rates should be trued-up to reflect the actual cost of the debt. Mr. Kaufman stated that, within 30 days of closing on its long term debt issuance, Auburn should file a revised tariff and report with the Commission explaining the terms of the debt issuance, including an amortization schedule, stating the amount of debt service reserve and providing an itemized account of all issuance costs. Mr. Kaufman testified that the revised rates should go into effect, unless both parties agree in writing that the true-up is unnecessary and the Commission does not disagree.

Margaret A. Stull, Senior Utility Analyst in the OUCC's Water/Wastewater Division, provided testimony regarding Auburn's proposal to impose a 15% surcharge on customers located outside its municipal boundaries. Ms. Stull recommended the Commission deny the proposed surcharge.

Ms. Stull noted that Auburn's current tariff does not include a surcharge to outside city customers, but it is proposing a 15% surcharge because the cost to serve them is greater than the cost to serve inside city customers. However, Ms. Stull testified that Auburn had not justified imposing rates that discriminate between inside and outside city customers. She stated that Auburn has not provided any reasonable evidence to support the surcharge, has not quantified the alleged subsidization, and has not provided a cost of service study. Ms. Stull stated that administrative personnel being paid through the general fund does not result in a conclusion that inside customers are subsidizing outside customers. Therefore, Ms. Stull recommended the Commission reject Auburn's surcharge proposal.

5. **Settlement Agreement and Evidence.** On February 13, 2018, the parties submitted as Joint Settlement Exhibit A the Settlement Agreement, which is attached and incorporated herein by reference, resolving the issues raised by the parties in this Cause. The terms of the Settlement Agreement are summarized below.

The parties agreed that Auburn has a revenue requirement of $3,035,079 and less revenues at current rates subject to increase and other revenues not subject to increase, requires a net revenue increase of $898,255. After application of the revenue conversion factor, the parties agreed that Auburn's current rates and charges for water service should be increased so as to produce additional pro forma operating revenues of $911,009, representing a 43.75% increase in rates and charges to be applied on an across-the-board basis. The details of these calculations are set forth on Joint Settlement Exhibit 1.

The parties also agreed that, subject to the Commission's approval, Auburn should be authorized to issue waterworks revenue bonds in a principal amount not to exceed $3,330,000. The parties also agreed that the annual debt service amount of $322,494 should be used to establish Auburn's annual pro forma revenue requirement, as reflected on Joint Settlement Exhibit 1. The parties further agreed that because the precise interest rate and annual debt service will not be known until Auburn's debt is issued, Auburn's rates should be trued-up to reflect the actual cost of the debt if the debt service amount is materially different from $322,494. Therefore, the parties agreed that within 30 days of closing on its debt issuance, Auburn shall file a revised tariff and a report in this Cause explaining the terms of its debt issuance, including an amortization schedule, stating the amount of debt service reserve and providing an itemized account for all issuance costs.

Finally, the parties agreed that there shall be no surcharge added to the rates and charges for water customers located outside the municipal boundaries of Auburn.

Auburn's witness, Mr. Guerrettaz testified in support of the Settlement Agreement. Mr. Guerrettaz recounted the negotiations that culminated in the settlement, including a comparison of Auburn's 50.00% proposed rate increase and the OUCC's rate increase proposal of 41.64%. Mr. Guerrettaz testified that under the Settlement Agreement, Auburn's pro forma operating revenues from its recurring monthly rates and charges would be increased by $911,009, representing a 43.75% increase on an across-the-board basis. According to Mr. Guerrettaz, while the 43.75% increase is a significant decrease from what Auburn requested in its case-in-chief, the increase will provide Auburn with reasonable and just rates and charges for services and produce sufficient income to satisfy its service requirements.

Mr. Guerrettaz explained some of the other areas of compromise that resulted in the settlement. He stated that the OUCC had agreed with some of Auburn's proposals, including the necessity of its Capital Improvement Plan and its need to fund some of these projects with bond proceeds. Likewise, Auburn accepted several positions set forth by the OUCC, including the acceptance of a lower debt service amounts in its revenue requirement. Mr. Guerrettaz explained that the parties negotiated and compromised with respect to the amount and nature of certain operating expenses which the OUCC characterized as capital, or non-recurring, and therefore improper for the revenue requirement. Mr. Guerrettaz testified that the parties agreed to modified positions and amounts, as reflected on Joint Settlement Exhibit 1.

Mr. Guerrettaz also explained that Auburn agreed with the OUCC's proposals with respect to a lower average debt service amount as part of its revenue requirement and a decrease in its proposed maximum debt service payment and borrowing authority. Auburn also agreed to a true-up procedure following the debt issuance which, as explained by Mr. Guerrettaz, was reflected in Paragraph 6 of the Settlement Agreement. Mr. Guerrettaz also testified that Auburn agreed to not seek authority to impose a 15% surcharge on outside city customers.

The OUCC's witness, Ms. Sisson also testified in support of the Settlement Agreement. Ms. Sisson agreed that the 43.75% across-the-board increase was a result of compromise between the parties, as reflected on Joint Settlement Exhibit 1. Ms. Sisson described the additional stipulations: (1) Auburn's total test year pro forma operating revenues at present rates is $2,136,150; (2) Auburn shall not seek to impose a surcharge on water customers located outside the municipal boundaries of Auburn; and (3) subject to the Commission's approval, Auburn shall be authorized to issue waterworks revenue bonds in a principal amount not to exceed $3,330,000. Ms. Sisson also explained that the parties agreed Auburn's annual debt service of $322,494 shall be used to establish Auburn's pro forma revenue requirement, and that its rates should be trued-up to reflect the actual cost of the issued debt if materially different from $322,494.

Ms. Sisson testified the settlement is a reasonable compromise of the OUCC's and Auburn's positions as set forth in their respective cases. She agreed that the settlement is a fair, just, and reasonable resolution of all issues presented in this Cause and, like Mr. Guerrettaz, stated the settlement should be considered to be in the public interest.

6. **Commission Discussion and Findings.** Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406. Furthermore, any Commission decision, ruling, or order – including the approval of a settlement – must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330, 331 (Ind. 1991). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Indiana Code ch. 8-1.5-3, and that such agreement serves the public interest.

A. Auburn's Authorized Rates. Based on the evidence presented, the Settlement Agreement ensures that Auburn's rates and charges are non-discriminatory, reasonable, and just as required in Ind. Code § 8-1.5-3-8. Customers would have experienced an across-the-board increase of 50.00% under Auburn's proposal, and the Settlement Agreement reduces the increase to 43.75%. The Settlement Agreement also provides Auburn with sufficient revenues to continue to operate in a safe and reliable way. Thus, Auburn's current rates and charges for water utility service shall be increased by $911,009 to produce a net annual revenue requirement of $3,034,405, as detailed in the table below.

	Settlement
Operation and Maintenance Expense	$ 1,917,362
Payment in Lieu of Taxes	186,425
Taxes Other than Income Taxes	28,295
Total Operating Expenses	2,132,082
Extensions and Replacements	580,503
Debt Service - Current and Proposed Bonds	322,494
Total Revenue Requirements	3,035,079
Less: Miscellaneous Income	674
Other Income	0
Total Net Annual Revenue Requirements	3,034,405
Less: Revenues at current rates subject to increase	2,081,674
Other Revenues not subject to increase	54,476
Net Revenue Increase Required	898,255
Divide by Revenue Conversion Factor (100%-1.4%)	0.986
Additional Revenue Required or Recommended Increase	$ 911,009
Calculated Percentage Increase	43.76%
Recommended Percentage Increase	43.75%

Auburn's current schedule of rates and charges was placed into effect on October 14, 1999 following the Commission's Order in Cause No. 41414 on September 22, 1999, and in light of the amount of time that has transpired between Auburn seeking an increase in its water rates and charges, and in the absence of a cost of service study, the Commission finds that Auburn's proposed across-the-board increase appropriate for purposes of this case.

In this case, Auburn has proposed a five-year Capital Improvement Plan to be partially funded from its annual operating revenue from rates and charges, and partially funded from the proceeds of a bond issuance. The Commission has reviewed the projects identified in the Capital Improvement Plan and, noting that the OUCC has agreed that the planned capital improvements appear to be reasonable and necessary for the continued provision of reliable service, the Commission finds that the Capital Improvement Plan is reasonable, ensures Auburn's continued safe and reliable operation of its utility, and is thus approved. The Commission also approves Auburn's proposed changes to its water service attachment fees for new customers, which it finds are reasonable, fair, and cost supported.

B. Auburn's Financing. In its case-in-chief, Auburn sought authority to issue new waterworks revenue bonds in an amount not to exceed $3,360,000. However, in the Settlement Agreement, Auburn requests authority to issue such bonds in a maximum amount of $3,330,000. The Commission finds that the capital projects to be funded with the proceeds of the bond issuance are reasonably necessary for the provision of adequate and efficient utility services, and the debt issuance

is a reasonable method for financing such projects. Pursuant to Ind. Code § 8-1.5-2-19(b), when a municipality, such as Auburn, issues debt, it must show that the rates and charges "will provide sufficient funds for the operation, maintenance, and depreciation of the utility, and to pay the principal and interest of the proposed bond issue, together with a surplus or margin of at least ten percent (10%) in excess." Using the figures from Joint Settlement Exhibit 1, the Commission finds that Auburn has met the standard under Ind. Code § 8-1.5-2-19(b). The Commission therefore authorizes Auburn to issue new waterworks revenue bonds in an amount not to exceed $3,330,000.

The parties additionally agreed in the Settlement Agreement that Auburn's annual debt service of $322,494 should be used to establish Auburn's annual pro forma revenue requirement, as reflected on Joint Settlement Exhibit 1, which the Commission approves. The Commission also agrees with the parties' agreement that Auburn's rates should be trued-up to reflect the actual cost of the debt if the debt service amount is materially different from $322,494. Therefore, within 30 days of closing on its debt issuance, Auburn shall file a revised tariff and a report in this Cause explaining the terms of its debt issuance, including an amortization schedule, stating the amount of debt service reserve, and providing an itemized account for all issuance costs. The revised rates shall go into effect, unless both Auburn and the OUCC agree in writing that the true-up is not necessary and the Commission does not reject such agreement. No Commission order approving such waiver of the true-up shall be required.

The Settlement Agreement provides that Auburn shall not seek to impose a surcharge on water customers located outside the municipal boundaries of Auburn. The Commission finds this compromise is reasonable and appropriate, and therefore the proposed surcharge of 15% on customers located outside the municipal boundaries of Auburn is not authorized.

C. Conclusion Regarding Settlement Agreement. Based on our discussion above and our review of the evidence presented, we find that the Settlement Agreement is reasonable, supported by the evidence, and in the public interest. Therefore, we approve the Settlement Agreement. A copy of the Settlement Agreement is attached to this order and incorporated into it.

D. Use of Settlement Agreement. The parties agree that the Settlement Agreement should not be used as precedent in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. Consequently, with regard to future citation of the Settlement Agreement, we find our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light,* Cause No. 40434, 1997 Ind. PUC LEXIS 459, at *19-22 (IURC March 19, 1997).

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

1. The Joint Stipulation and Settlement Agreement between Auburn and the OUCC, filed in this Cause on February 13, 2018 as Joint Settlement Exhibit A, and which is attached to this Order, is approved.

2. Auburn is authorized to increase its rates and charges for water service, across-the-board, to reflect net annual revenues of $3,034,405, representing a 43.75% increase.

3. Auburn is authorized to implement its Capital Improvement Plan.

4. Auburn is granted a Certificate of Authority to issue additional waterworks revenue bonds in a principal amount not to exceed $3,330,000, as approved herein. Within 30 days of closing on its debt issuance, and unless the parties waive this requirement as explained above, Auburn shall file a revised tariff and a report in this Cause explaining the terms of its debt issuance, including an amortization schedule, stating the amount of debt service reserve and providing an itemized account for all issuance costs.

5. Prior to placing into effect the rates and charges approved herein, Auburn shall file with the Commission's Water/Wastewater Division a schedule of rates and charges in a manner consistent with this Order and the Commission's rules for filing such schedules. Once the Commission's Water/Wastewater Division approves the rate schedule, it shall cancel all prior rates and charges.

6. In accordance with Ind. Code § 8-1-2-85, Auburn shall pay a fee equal to $0.25 for each $100 of waterworks revenue bonds issued, to the Secretary of the Commission, within 30 days of the receipt of the financing proceeds authorized in this Order.

7. In accordance with Ind. Code § 8-1-2-70, Auburn shall pay within 20 days from the date of this Order, and prior to placing into effect the rates approved in this Order, the following itemized charges, as well as any additional charges which were or may be incurred in connection with this Cause.

Commission Charges:	$ 627.05
OUCC Charges:	$ 9,950.14
Legal Advertising Charges:	$ 152.85
Total:	$10,730.04

Auburn shall pay all charges into the Commission public utility fund account described in Ind. Code § 8-1-6-2, through the Secretary of the Commission.

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

HUSTON, FREEMAN, OBER, WEBER AND ZIEGNER CONCUR:

APPROVED: APR 18 2018

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

Virginia Lucas acting for
Mary M. Becerra
Secretary of the Commission

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF THE CITY OF AUBURN, INDIANA BY ITS MUNICIPALLY-OWNED WATER UTILITY FOR APPROVAL OF A NEW SCHEDULE OF RATES AND CHARGES FOR WATER SERVICE AND AUTHORITY TO ISSUE WATERWORKS REVENUE BONDS	)	CAUSE NO. 44985

JOINT STIPULATION AND SETTLEMENT AGREEMENT

On September 14, 2017, the City of Auburn, Indiana, by its municipally-owned water utility ("Petitioner") filed a Verified Petition with the Indiana Utility Regulatory Commission ("Commission") requesting its approval of a new schedule of rates and charges for water service and authority to issue waterworks revenue bonds. In its case-in-chief filed on September 15, 2017, Petitioner proposed a 50.00% across-the-board increase in the recurring monthly rates and charges of its municipal water utility along with other relief.

The Indiana Office of Utility Consumer Counselor ("OUCC") reviewed Petitioner's testimony and exhibits, conducted a field audit in Auburn, Indiana, met with Petitioner's representatives and requested additional information from Petitioner through both formal and informal discovery. The OUCC then filed its case-in-chief recommending a 41.64% across-the-board increase in Petitioner's rates and charges, acceptance of Petitioner's Capital Improvement Plan for purposes of justifying Petitioner's extensions and replacements revenue requirement and its financing request, approval of Petitioner's proposed Water Service Attachment Fees, imposition of certain reporting requirements related to Petitioner's issuance of debt, and rejection of Petitioner's proposal to impose a 15% surcharge on customers located outside the City of Auburn.

Subsequent to the OUCC's filing of its case-in-chief on January 17, 2018, Petitioner and the OUCC (individually, a "Settling Party" and collectively, the "Settling Parties") engaged in settlement negotiations. As a result of those negotiations, the Settling Parties reached an agreement with respect to all of the issues before the Commission in this proceeding, including without limitation, as follows:

1. **Test Year**. The period used for determining Petitioner's actual and pro forma operating revenues, expenses and operating income under present and proposed rates was the twelve months ended December 31, 2016. With revenue and expense adjustments for changes that were fixed, known, and measurable for ratemaking purposes and occurring through December 31, 2017, this test year is sufficiently representative of the normal operations of Petitioner's municipal water utility to provide reliable information for ratemaking purposes.

2. **Petitioner's Annual Revenue Requirements**. The Settling Parties have reached an agreement concerning the revenue requirements for Petitioner, which agreement is reflected in the accounting schedule attached hereto as Joint Settlement Exhibit 1. Petitioner's annual revenue requirements determined pursuant to Ind. Code § 8-1.5-3-8 on the evidence of record and agreed to by the Settling Parties, are as follows:

a. Operating Expenses. Petitioner's annual revenue requirement for operating expenses is $1,917,362.

b. Payment in Lieu of Taxes. Petitioner's annual revenue requirement for payment in lieu of taxes is $186,425.

c. Taxes other than Income Taxes. Petitioner's annual revenue requirement for taxes other than income taxes is $28,295.

d. Extensions and Replacements ("E&R"). Petitioner's annual revenue requirement for E&R is $580,503.

e. Debt Service. Petitioner's annual revenue requirement for debt service is $322,494.

3. **Petitioner's Aggregate Annual Revenue Requirement**. As detailed below, Petitioner's total annual revenue requirement is $3,035,079, and its net annual revenue requirement is $3,034,405.

Operating Expenses	$1,917,362
Payment in Lieu of Taxes	$186,425
Taxes other than Income	$28,295
Total Operating Expenses	$2,132,082
Extensions and Replacements	$580,503
Debt Service	$322,494
Total Revenue Requirements	$3,035,079
Less: Interest Income	($674)
Net Revenue Requirements	$3,034,405

4. **Petitioner's Operating Revenues**. As set forth on Joint Settlement Exhibit 1, the Settling Parties agree that the amount of Petitioner's total test year pro forma operating revenues at present rates is $2,136,150, which is the sum of revenues at current rates subject to increase of $2,081,674 and other revenues not subject to increase of $54,476. Petitioner's current rates and charges for water service do not produce sufficient revenue to pay all the legal and other necessary expenses incident to the operation of its municipal water utility; to provide a sinking fund for the liquidation of bonds or other obligations; to provide a debt service reserve for bonds or other obligations; to provide adequate money for working capital; to provide adequate money for making extensions and replacements to the extent not

provided for through depreciation; and to provide money for the payment of any taxes that may be assessed against the utility. The existing rates and charges collected by Petitioner's municipal water utility are unjust, unreasonable, and unlawful and should be increased.

5. **Amount of Stipulated Rate Increase**. The Settling Parties agree that Petitioner's current rates and charges for water service should be increased so as to produce additional pro forma operating revenues of $911,009, representing a 43.75% increase in rates and charges to be applied on an across-the-board basis, as shown on Joint Settlement Exhibit 1.

6. **Debt Issuance; Debt Cost True-Up**. The Settling Parties agree that, subject to the Commission's approval, Auburn should be authorized to issue waterworks revenue bonds in a principal amount not to exceed $3,330,000. The Settling Parties also agree that the annual debt service amount of $322,494 should be used to establish Auburn's annual pro forma revenue requirement, as reflected on Joint Settlement Exhibit 1. The Settling Parties further agree that the precise interest rate and annual debt service will not be known until Auburn's debt is issued, and therefore Auburn's rates should be trued-up to reflect the actual cost of the debt if the debt service amount is materially different from $322,494. Therefore, within thirty (30) days of closing on its debt issuance, Auburn shall file a report in this Cause explaining the terms of its debt issuance, including an amortization schedule, stating the amount of debt service reserve and providing an itemized account for all issuance costs. Such report shall also include a revised tariff. The Settling Parties agree that the revised rates should go into effect, unless both Settling Parties agree in writing that the true-up is unnecessary and the Commission does not reject such agreement. The Settling Parties agree

that unless directed by the Commission, no Commission order approving such waiver of true-up shall be required.

7. **Absence of Surcharge for Customers Located Outside Auburn.** The Settling Parties have agreed that there shall be no surcharge added to the rates and charges for water customers located outside the municipal boundaries of Auburn.

8. **Scope and Approval**

A. **No Admission/No Waiver.** Neither the making of this Settlement Agreement nor any of its provisions, including without limitation any provisions contained in exhibits to this Settlement Agreement, shall constitute in any respect an admission by any Settling Party in this or any other litigation or proceeding. This Settlement Agreement is solely the result of compromise in the settlement process and, except as provided herein, is without prejudice to and shall not constitute a waiver of any position that any of the Settling Parties may take with respect to any or all of the issues resolved herein in any future regulatory or other proceedings.

B. **Non-Precedential Effect.** Neither the making of this Settlement Agreement, nor the provisions thereof, nor the entry by the Commission of a Final Order approving this Settlement Agreement, shall establish any principles or legal precedent applicable to Commission proceedings other than those resolved herein. This Settlement Agreement shall not constitute nor be cited as precedent by any person or deemed an admission by any Settling Party in any other proceeding except as necessary to enforce its terms before the Commission, or any tribunal of competent jurisdiction.

C. **Authority to Stipulate.** The undersigned have represented and agreed that they are fully authorized to execute this Settlement Agreement on behalf of their designated

clients, and their successors and assigns, who will be bound thereby, subject to the agreement of the Settling Parties on the provisions contained herein and in the attached exhibits.

D. **Privileged Communications**. The communications and discussions during the negotiations and conferences have been conducted based on the explicit understanding that said communications and discussions are or relate to offers of settlement and therefore are privileged. All prior drafts of this Settlement Agreement and any settlement proposals and counterproposals also are or relate to offers of settlement and are privileged.

E. **Supporting Testimony**. The Settling Parties shall each offer supplemental testimony supporting the Commission's approval of this Settlement Agreement and will request that the Commission issue a Final Order incorporating the agreed proposed language of the Settling Parties and accepting and approving the same in accordance with its terms without modification. Such supportive testimony will be agreed-upon by the Settling Parties and offered into evidence without objection by any Settling Party and the Settling Parties hereby waive cross-examination of each other's witnesses.

F. **Acceptance in Entirety**. This Settlement Agreement is conditioned upon and subject to Commission acceptance and approval of its terms in their entirety, without any change or condition that is unacceptable to any Settling Party. The Settling Parties will support this Settlement Agreement before the Commission and request that the Commission accept and approve the Settlement Agreement. This Settlement Agreement is a complete, interrelated package and is not severable, and shall be accepted or rejected in its entirety without modification or further condition(s) that may be unacceptable to any Settling Party. The Settling Parties propose to submit this Settlement Agreement and evidence conditionally, and if the Commission fails to approve this Settlement Agreement in its entirety without any

change or imposes any condition unacceptable to any adversely affected Settling Party, the Settlement Agreement and supporting evidence may be withdrawn and the Commission will continue to proceed to a decision in the affected proceeding, without regard to the filing of this Settlement Agreement.

G. **Proposed Order**. The Settling Parties will work together to prepare an agreed upon proposed order to be submitted in this Cause. The Settling Parties will request Commission acceptance and approval of this Settlement Agreement in its entirety, without any change or condition that is unacceptable to any party to this Settlement Agreement. The Settling Parties will request that the Commission issue a Final Order promptly accepting and approving this Settlement Agreement in accordance with its terms.

H. **Reconsideration/Appeal**. The Settling Parties shall not appeal or seek rehearing, reconsideration or a stay of any Final Order entered by the Commission approving the Settlement Agreement in its entirety without changes or condition(s) unacceptable to any Settling Party (or related orders to the extent such orders are specifically and exclusively implementing the provisions hereof) and shall not oppose this Settlement Agreement in the event of any appeal or a request for rehearing, reconsideration or a stay by any person not a party hereto.

Respectfully submitted,

Dated: February 13, 2018

CITY OF AUBURN, INDIANA

By: Michael B. Cracraft
Mark R. Alson
An Attorney for the City of Auburn

Dated: February 13, 2018

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

By: Daniel M. Le Vay
Jesse James
Its Attorney

Joint Settlement Exhibit 1

AUBURN MUNICIPAL WATER UTILITY
CAUSE NO. 44985

Petitioner's, OUCC's and Settlement – Revenue Requirements

	Per Petitioner	Per OUCC	Settlement
Operating Expenses	$1,945,411	$1,899,753	$1,917,362
Payment in Lieu of Taxes	186,425	186,425	186,425
Taxes other than Income	28,295	28,295	28,295
Total Operating Expenses	2,160,131	2,114,473	2,132,082
Extensions and Replacements	580,503	580,503	580,503
Debt Service	383,190	322,494	322,494
Total Revenue Requirements	3,123,824	3,017,470	3,035,079
Less: Interest Income	(674)	(674)	(674)
Metered Hydrant Usage	(6,691)	-	
Net Revenue Requirements	3,116,459	3,016,796	3,034,405
Less: Revenues at current rates subject to increase	(2,063,858)	(2,081,674)	(2,081,674)
Other revenues not subject to increase	-	(80,361)	(54,476)
Net Revenue Increase Required	1,052,601	854,761	898,255
Divide by Revenue Conversion Factor (100% - 1.4%)	0.986	0.986	0.986
Recommended Increase	$1,067,547	$866,898	911,009
Calculated Percentage Increase	51.73%	41.64%	43.76%
Recommended Percentage Increase	50.00%	41.64%	43.75%