

FILED

AUG 17 2018

STATE of INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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**COMPLAINT OF CLARK BYRUM AGAINST)
CITIZENS WASTEWATER OF WESTFIELD,) CAUSE NO. 44886
LLC CONCERNING THE PROVISION OF)
WASTEWATER SERVICE)**

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") has caused the following entry to be made:

On August 2, 2018, Clark Byrum ("Byrum") filed *Complainant's Request to Reopen Record and Grant Relief* ("Request") in this Cause along with *Complainant's Affidavit*. Byrum seeks to reopen the record to present new evidence. Citizens Wastewater of Westfield, LLC ("Citizens Westfield") on August 13, 2018, filed *Citizens Wastewater of Westfield, LLC's Response to Second Request for Post-Order Relief* opposing the Request based upon 170 IAC 1-1.1-22 and requesting it be summarily denied. On August 16, 2018, Byrum filed *Complainant's Reply to Citizens Response on Request to Reopen Record and Grant Relief*.

While Byrum states that the Request is filed "pursuant to 170 IAC 1-1.1-22," we find otherwise because the Request was filed almost five months after the Commission approved a final order in this matter ("44886 Order") on March 14, 2018. In addition, Byrum filed a request for reconsideration on April 3, 2018, which the Commission addressed in an Order on Reconsideration approved on May 30, 2018.¹ Notably, Byrum cites no provision in 170 IAC 1-1.1-22 which authorizes him to file the Request after the Commission's approval of the 44886 Order and the Order on Reconsideration, and we are not persuaded the exercise of appropriate discretion warrants doing so. To the extent Byrum claims otherwise, he is urged to more carefully review 170 IAC 1-1.1-22.

170 IAC 1-1.1-22(a) authorizes reopening the record to take additional evidence "before a final order is issued." 170 IAC 1-1.1-22(a). 170 IAC 1-1.1-22(b) through 22(d) then address the requirements and procedure to do so. This procedure is not applicable in this Cause because a final order was issued on March 14, 2018. Following the 44886 Order, under 170 IAC 1-1.1-22(e), any party may petition for rehearing and reconsideration within 20 days of the entry of the final order. Byrum filed for reconsideration. The Commission considered his reconsideration petition, and an Order was issued thereon. Insofar as Byrum claims 170 IAC 1-1.1-22(e)(3)(C) authorizes reopening the record now, over five months after a final order was entered and after an Order on Reconsideration, to receive further evidence, Request at p. 9, he misreads this provision. Under 170 IAC 1-1.1-

¹ The Order on Reconsideration was approved on May 30, 2018, not May 20, 2018, as stated in the Request.

22(e)(3)(C), the Commission may reopen the proceeding to receive further evidence in connection with a timely filed petition for rehearing and reconsideration. It does not authorize reopening the record months after entering an Order on Reconsideration.

Having reviewed the Request, the Presiding Officers DENY the Request.

IT IS SO ORDERED.



James F. Huston, Chairman



Carol Sparks Drake, Administrative Law Judge

Date: August 17, 2018