STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE CITY OF FORT WAYNE, INDIANA FOR AUTHORITY TO ESTABLISH AND IMPLEMENT A SYSTEM DEVELOPMENT CHARGE FOR WATER UTILITY SERVICE	)	**CAUSE NO. 45124**

INTERVENOR CITY OF NEW HAVEN'S EXHIBIT 1
DIRECT TESTIMONY OF GREGORY T. GUERRETTAZ

/s/ *R.M. Glennon*
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Q. 1 Please state your name, title, and business address.

A. My name is Gregory T. Guerrettaz. I am a CPA. My office is located at 2680 E. Main St., Suite 223, Plainfield, Indiana 46168.

Q. 2 By who are you employed and what is your position?

A. I am the President of Financial Solutions Group, Inc. (FSG Corp).

Q. 3 Please summarize your educational and professional qualifications.

A. I received a Bachelor's degree in Accounting from Indiana University. I am a Certified Public Accountant, licensed in the State of Indiana, and I am a member of the American Institute of Certified Public Accountants and the Indiana CPA Society. I am an Associate Member of the Association of Indiana Counties and the Indiana Association of Cities and Towns. I have served as the Chairman of the Indiana CPA Utilities Committee. During my employment, I have attended and spoken at numerous seminars on governmental accounting and finance throughout the United States. I continue to maintain all requirements under CPA and AICPA Continuing Professional Education requirements.

I have presented testimony to the Indiana Utility Regulatory Commission ("Commission" or "IURC") on a variety of issues over the past 25 years including, but not limited to, revenue requirement calculations, accounting methodology and related areas, utility historical and pro-forma financial information, cost of capital analysis, rate structure and cost of service issues, issuance of both long- and short-term debt, utility operating information, utility operations, utility trackers, and other utility related issues.

I prepare activity-based budgets and assist in both short and long-range plans. I am a registered Municipal Advisor with the U.S. Securities and Exchange Commission. I have served as Financial Advisor for billions of dollars of tax-exempt and taxable securities, including utility financings through the Indiana State Revolving Fund (SRF).

Q. 4 Please state your experience prior to joining FSG Corp.

A. I was employed for 8 years with a national accounting firm in Indianapolis. I was a partner in that firm for 4 years and, for 4 years in a partnership between that firm and Municipal Consultants, Inc. Prior to that, Municipal Consultants, Inc. employed me for 7 years until the partnership's eventual merger with the national accounting firm. While at Municipal Consultants, Inc., I reviewed, prepared, and analyzed fuel adjustment clause (FAC) filings by various electric utilities. I also testified numerous times, over the 7 years, regarding the FAC.

Preceding my time with Municipal Consultants Inc., I worked for 3 years as a Staff Accountant for the Accounting Department of the Public Service Commission of Indiana, now known as the Indiana Utility Regulatory Commission. In that position, I prepared and presented testimony in major electric and water cases.

Q. 5 On whose behalf are you testifying in this proceeding?

A. I am testifying on behalf of the City of New Haven.

Q. 6 What is the purpose of your testimony?

A. To respond to Fort Wayne's request for a System Development Charge ("SDC") and to demonstrate that it would be inappropriate for Fort Wayne to attempt to charge an SDC to the City of New Haven or its water customers.

I. Background

Q. 7 Please describe the City of New Haven's municipal water utility.

A. New Haven is a small city with a population of approximately 15,700 located mostly within the I-469 loop contiguous to and just east / southeast of Fort Wayne. New Haven and its connection points to Fort Wayne's water transmission lines rest in close proximity to Fort Wayne's water treatment plant. New Haven's water is supplied by Fort Wayne at four connection points feed by Fort Wayne transmission mains of 12 to 24 inch diameter. New Haven's municipal water utility has approximately 5,200 customers the bulk of which are residential. New Haven is largely older blue-collar neighborhoods.

Q. 8 **How is New Haven billed by Fort Wayne for its wholesale sale for resale water supply service?**

A. Each month Fort Wayne currently charges New Haven both a volumetric charge, a water demand charge of over $12,000, a public fire protection charge and a service charge.

Q. 9 Are you aware of any Indiana statutes or IURC Rules that specifically address the formulation and content of system development charges and to what customers SDCs should be charged?

A. I am not aware of any statute in Indiana that specifically addresses or directly contemplates a SDC. The only IURC Rule regarding SDCs is the 30 day filing process rule, 170 IAC 1-6-1 *et. sec*. which defines SDC and indicates SDCs may not be approved in 30 day filings. That Rule defines SDC as:

System Development Charge or ("SDC") means one time fee ***assessed to new customers of water or sewer utilities*** to ***help finance development of utility systems***, mainly those dealing with facilities ***for production, treatment and storage necessary to serve those new customers***
The term includes the following:
(A) Impact fee.
(B) Availability Fee
(C) Capacity Fee.

Emphasis added.

Q. 10 What in your opinion does the simple language of the Commission definition of SDC communicate?

A. To me it makes several important points clear. First the SDC is to be charged to "new customers of water or sewer utilities." It does not allow for the SDC of one utiltiy to be charged to customers of another utility. I note New Haven is not a new customer to Fort Wayne. New Haven has been a Fort Wayne customer for almost sixty years. Nor are new customers on the New Haven system new customers of the Fort Wayne utility, they are New Haven utility's new customers.

Second, the Rule definition is limited to "help financing costs of utility systems…. necessary to serve those customers." The SDC definition does not encompass helping to pay financing costs for utility systems not used to serve that customer.

Lastly the SDC is limited to the customer's share of the water production, treatment and storage, sometimes called the "back bone system." It does not include a share of financing costs for other plant systems such as distribution system plant.

Q. 11 Should there be concern that all or part of an SDC may already be collected in the requesting utility's other charges?

A. Yes there should be. As the Rule's language indicates SDC charges may already be within other fees under different names, like the listed capacity fee, impact fee, availability fee. Similarly, SDC charges could possibly already be embedded in part or whole in a new customer connection charge or extension charges, depending on their inputs and calculation.

Q. 12 **Are you aware of any IURC orders that on the merits address litigated SDC cases?**

A. No, I am not. Mr. Walsh references Cause no. 44892, but that case is a non-precedential settlement. Nor does it address the substantive issues raised in this case. The only IURC orders addressing SDCs that I am aware of are the result of non-precedential settlement agreements. To the best of my knowledge, there has not been an SDC case where a wholesale sale for resale customer had to intervene in a Commission SDC case to prevent the wholesale sale for resale customer from being charged or over charged an SDC by its wholesale supplier.

Q. 13 Does Fort Wayne's testimony recite or reference to the IURC Rule that sets forth the definition of SDC?

A. No, it does not.

Q. 14 You indicate there is not a specific SDC statute to provide guidance, and Fort Wayne does not make reference to the limitations within the IURC Rule's definition of SDC, so what guidance does Mr. Walsh for Fort Wayne point to regarding SDC purpose, structure, and administration?

A. He states at page 5 the proposed SDC is calculated "using the Equity (Buy-In) Method described in the AWWA M-1 Manual – Principals of water rates and charges… (6th Edition page 267), and approved by this Commission in prior cases. See e.g. Cause No. 44892." I note the current AWWA M-1 Manual is the 7th Edition.

Q. 15 What does the AWWA M-1 Manual say that is pertinent to Fort Wayne's proposed SDC?

A. SDCs are addressed in Chapter VII.2 of the AWWA M-1 Manual, 7th Edition ("M-1 Manual") pages 321-347. Therein an SDC is described as:

> a one time charge paid by a new water system customer for system capacity. It is also assessed to existing customers requiring increased system capacity. The receipts from this charge are used to finance the development of growth-related or capacity-related water facilities and are an important funding/financing source for these facilities.
>
> ……
>
> In general, SDCs are based on the costs of ***major backbone infrastructure*** components that are ***necessary to provide service to all customers***, including ***source of supply*** facilities, ***raw water transmission***, ***treatment*** facilities, ***pumping*** facilities, ***storage*** tanks, and major treated –water transmission mains (e.g. "***general benefit facilities***" see Figure VII1-1) Much less common, and only when local circumstances or applicable state or local government statutes specifically allow for it, the cost of water distribution mains and other facilities might also be recovered from SDCs."
> M-1 manual 321-322. Emphasis added.

The M-1 Manual goes on to state:

> The use of SDC receipt is generally limited. First, SDC receipts can be used to directly pay for a growth-related capital improvement project. In using the SDC receipts in this manner, the utility will likely have avoided, or a least minimized, the use of long term debt or pay-as-you go rate funding for the project that shelters the existing ratepayers from the cost of expansion of the system and, hence may reduce the need for monthly user rate increases. The other typical use of SDC receipts is to apply them against growth related debt service. When a utility issues long-term debt to pay for a growth-related capital project, the associated debt services generally paid using SDC receipts. In doing so the utility may be able to better align the cash flows related to the debt service with the timing of new connections and receipts derived from SDC's. However, it is important to be aware of any legal restriction or bond covenants related to the use of SDC receipts being applied to debt service payments…..*Id.* 323.

The M-1 Manual emphasizes the importance of the "ration Nexis test." It states the rational Nexis test is a:

> ….common legal consideration related to SDCs…in general terms the rational Nexis test requires that there be a connection established between the new development and the new or expanded facilities required to accommodate the new development, and appropriate apportionment of the costs to the new development in relation to the benefits reasonably expected to be received by the new development. *Id*. 324.

The M-1 Manual lists seven elements to the so call Banberry factors to be considered in satisfaction of the rational Nexis test. Those factors are:

1. The cost of existing facilities
2. The means by which existing facilities have been financed and who paid those costs.
3. The extent to which new development has already contributed to the cost of providing existing excess capacity.
4. The extent to which existing development will, in the future, contribute to the cost of providing existing facilities used community-wide or non-occupants of new development.

5. The extent to which new development should receive credit for providing at its cost facilities the community has provided in the past without charge to other development in the service area.
6. Extraordinary costs incurred in serving new development.
7. The time-price differential inherent in fair comparisons of the amount of money paid at different times. *Id.* at 325.

The final element of the rational Nexus test is the reasonable apportionment of the cost to new development.

> The financing criteria for establishing SDCs relates to the method used to finance infrastructure and ***ensures that customers are not paying twice for infrastructure- once through SDCs and again through rates.***" *Id***.** Emphasis added.

The M-1 Manual emphasizes the need for segregation and dedication of SDC funds:

> Depending on relevant legal and accounting requirements, it is important for utilities that charge SDCs to ***track the receipts carefully and separately so they can ensure that the receipts are*** applied to offset growth or expansion-related capital costs and are ***not used for operations and maintenance "O&M"*** or any other purpose not allowed by the pertinent regulations. *Id.* at 326. Emphasis added.

Similarly the M-1 Manual emphasizes exclusion of grant funded assets:

The cost of grant-funded and contributed assets are ineligible to be recovered through SDCs because such costs are not incurred by the utility and SDCs should not provide a "windfall" to existing users. *Id. 326*

Q. 16 The M-1 Manual discusses three SDC methodologies, the "buy-in-method," the "cost method," and the "combined cost approach." Which method has Fort Wayne used?

A. Mr. Walsh states that Fort Wayne is using the "Equity (Buy-in) Method" described in the M-1 Manual. I assume he is referencing to the buy-in-method.

Q. 17 How does the M-1 Manual describe the buy-in Method?

A. The M-1 Manual states:

> The buy-in method is typically ***used where there is sufficient capacity in the existing system such that it is capable of meeting both near-term and long-term capacity needs***. Under the buy-in method, new development ***buys a proportionate share of capacity at cost (value) of the existing facilities***. It is important to note that while Payment of an SDC, under this method is generally considered to provide access to capacity in the amount purchased at a status equal to that of existing customers of the system. *Id.* 331. Emphasis added.

Q. 18 Does the M-1 Manual touch on the theory of a water supplier charging its wholesale sale for resale water customer an SDC?

A. Only slightly in a single paragraph on page 301 under a separate section entitled Development Fees and Capital Cost Recovery. It says that wholesale customers may be called upon to pay capital costs as a condition of receipt of service. It then lists three "general cost recovery strategies:"

Collect CIAC from the wholesale customer upfront when service is initiated;

Collect a SDC for initial connections or capacity reserved by the purchasing utility and additional SDC's as new customers occur;

Collect the capital costs as a component of the rates for service. "the normal ***rates for wholesale service will include the proportionate share of***

capital and operating costs applicable to the services provided to the purchasing utility." *Id.* Emphasis added.

Q. 19 Does any of that language justify Fort Wayne charging New Haven or its customers a SDC?

A. No it does not for the several reasons I will latter discuss. Those reasons include New Haven already pays its share of capital costs in the volumetric rates Fort Wayne charges. Moreover, Fort Wayne currently bills New Haven for a demand charge of over $3,000 per month applied to the bills of each of the four metered connection points to Fort Wayne's transmission lines. That is over $12,000 per month in demand charges. To again charge New Haven or its customers a SDC for capital costs of the back bone water supply system would represent triple recovery of the same costs.

Also of the three listed methods Fort Wayne has already previously made its election and chosen recovery of its capital costs in its base rates.

It must be recognized that the mere mention in a single paragraph in the M-1 Manual that a SDC "may be" a way for wholesale customers to pay for capital costs of their service provider does not make such a SDC good regulatory policy, or in anyway a fair charge to the customer or in anyway binding on the IURC. It is not a statue or an approved IURC rule. The SDC is primarily yet another means for water utilities to get money from developers that want new homes or buildings attached to the water supply system. The AWWA M-1 Manual is primarily the work of professionals that work for water utilities as employees or as consultants. They of course promote the strong financial health of the utilities that employ them. But, that all does not make the SDC fair to New Haven or the proposed “equity Buy-in method” reasonable.

Being told that as a new resident you have to pay a SDC is kind of like you moving to Brooklyn N.Y. and being told you have to pay for your “equity share" of the Brooklyn Bridge. And there likely are those that would be willing to try to get you to buy a share of the Brooklyn Bridge, perhaps under the superficial guise that those before you paid for it so you to must pay for your equity share of it.[1] Now, it might make sense to charge you a toll for your actual use of that bridge. And that toll might reasonably be based on the fixed and variable cost recovery of what a journey across the bridge costs the City of N.Y. But their is no reasonable basis that you should be required to buy an “equity share” of that public asset, or in this case Fort Wayne’s water utility, that are both devoted to providing public service. Utility customers pay for service. They do not own the "equity” of the utility assets unless the legal framework and statutory basis for the utility says the customers own such an interest, like in the case of some REMC Cooperatives.

The mere mention in the M-1 Manual that a SDC “may be” one of among other back bone system capital cost recovery methods does not

[1] George C. Parker 1860-1936, fraudulently sold the rights to Brooklyn Bridge and other landmarks multiple times, before spending the rest of his life in prison.

mean a SDC is sound regulatory policy or that the equity buy-in method results in a reasonable or lawful charge to customers. Rather the IURC regulatory policy and reasonable rate analysis to me rests upon the pertinent traditional ratemaking considerations I have outlined regarding: cost based base rates, avoidance of double or triple recovery of the same back bone system cost components in base rates or in charges and again in a SDC, improper calculation of the SDC, lack of means to ensure the SDC receipts are used for the capital cost they are intended to pay i.e. back bone system financing costs.

II <u>Fort Wayne proposed SDC's non compliance with M-1 Manual</u>

Q. 20 Has Fort Wayne complied with the SDC M-1 guidelines?

A. In my opinion, they have not complied with important guidelines of the M-1 manual.

Q. 21 Please describe how Fort Wayne's proposed SDC does not comply with the M-1 manual.

A. The departure from the M-1 manual guidelines are as follows:

a. Inclusion of distribution system. As I previously noted, the M-1 Manual makes very clear that the SDC is a one time charge paid by a new water system customer for back bone system capacity components including source of supply, raw water transmission, treatment facilities, pumping facilities, storage tanks, and major treated water transmission mains. The IURC Rule's definition of SDC also limits it to financing cost for back bone system water production, treatment and storage. Yet, as Mr. Walsh testifies, Fort Wayne has only subtracted contributions in aid of construction ("CIAC") and outstanding debt to arrive at its total rate base upon which it calculates the SDC. *Walsh Testimony* p. 7. I do not see a deduction for distribution plant. Rather distribution and transmission values are combined and both are included. The M-1 Manual's buy-in methodology illustrative example at p. 333 demonstrates that distribution system lines or other non back bone system assets are not included in the SDC calculation. Because of the apparent failure to remove investment in distribution plant, Fort Wayne's proposed SDC is substantially overstated and not in compliance with the IURC definition of SDC or the M-1 Manual.

b. Lack of fund segregation. As I previously described, the M-1 Manual emphasizes that SDC receipts must be tracked carefully and separately so it is ensured that the receipts are applied to offset growth or expansion related capital costs **and are not used for operation and maintenance expense or other purposes.** *Id.* p. 326. I see no proposal in Fort Wayne's testimony to segregate or otherwise ensure that SDC receipts will not be used for operating purposes. Mr. Walsh just says SDC revenue will be booked as CIAC. That is insufficient. It does not ensure the SDC funds are used to pay for financing the back bone capital assets it is intended to pay.

c. Double recovery. As I previously pointed out the M-1 Manual indicates that customers should not pay twice for infrastructure, once through SDC and again through rates. p. 325. Yet as proposed by Fort Wayne, such a double or even triple recovery exists. For example, municipal water utility rates like Fort

Wayne's include cash revenue requirements for debt service, depreciation, extensions and replacements, and specific capital improvement items arising from back bone supply assets. To the extent that a new customer is paying those water rate's cash revenue requirements, they would be paying them again as capital costs reflected within the SDC charge. This double recovery is particularly true in the case of debt service and depreciation on back bone supply financing.

Moreover, if the new customer is charged a demand charge, they are therein paying for back bone capacity costs that would also be embedded within the SDC. Lastly, if a new customer pays a connection charge, they are paying for their share of distribution cost, and certainly their share of distribution costs should not again be collected from them in the SDC.

d. Exclusion of grants. Mr. Walsh's Exhibit 4 p. 3 excludes contributions in aid of construction in his "equity" calculation of the SDC. It does not specify if that includes all grants.

e. New Haven currently pays a demand charge. It would be further inappropriate for Fort Wayne to seek approval to charge new customers of New Haven's water utility an SDC for Fort Wayne costs because New Haven is currently billed a separate monthly demand charge by Fort Wayne. A demand charge paid by a sale for resale customer like New Haven to its wholesale water supplier, here Fort Wayne, is already paying for back bone system capital cost water capacity. To ask for it again from New Haven or any entity on New Haven's side of the water supply meter is to ask for triple recovery.

III. <u>Fort Wayne should not attempt to charge an SDC to the separate sovereign municipality New Haven.</u>

Q. 22 Does Fort Wayne indicate it intends to charge its wholesale sale for resale municipal water utility customer an SDC for new customer connections to New Haven's municipal water utility?

A. Mr. Walsh's brief testimony does not specify an intention to charge New Haven new connections a Fort Wayne SDC. However, when asked about it in discovery, Fort Wayne responded that when New Haven adds new customers to its systems, those connections should pay an SDC to Fort Wayne. I am not aware of the IURC approving an SDC to be charged by a municipal utility to a neighboring sale for resale municipal utility wholesale customer, nor to any customer of that neighboring sale for resale municipal utility.

Q. 23 Do you believe it is proper for Fort Wayne to charge New Haven its proposed SDC?

A. No, I do not believe that would be proper for several reasons.

First**,** New Haven is a sovereign municipality separate and apart from Fort Wayne. New Haven operates its own separate and apart municipal water utility. New Haven's customers are not customers of Fort Wayne. They are customers of New Haven. If the New Haven municipal water utility is to charge an SDC, it should be a New Haven SDC for the recovery of New Haven's municipal water system backbone capital investments, not Fort Wayne's. If New Haven customers were to be charged a SDC it should be a SDC based on New Haven's utility assets. I know of no inter-local agreement or other inter municipal agreement between

New Haven and Fort Wayne that would allow Fort Wayne to charge New Haven customers a SDC.

Second, in its monthly water bills, Fort Wayne already charges New Haven a large demand charge. Demand charges recoup the cost of demand on Fort Wayne's backbone water capacity systems capacity. For Fort Wayne to charge that demand charge and a SDC, is a double recovering of those backbone costs.

Third, the base rates that Fort Wayne already charges New Haven include Fort Wayne capital asset costs e.g. depreciation, debt service, capital asset extensions and replacements. To again charge New Haven customers an SDC for Fort Wayne's backbone capital costs would be triple recovery of those costs.

Fourth, New Haven's water purchases from Fort Wayne are basically flat. In 2013 volumes were about 360,956,376 gallons and most recently in 2017 were 358,998,890. During that period New Haven added 130 customers, with no increase in annual water purchased from Fort Wayne. Annual volumes may vary, but even with customer additions, purchases from New Haven are relatively flat. Like most water utilities New Haven has declining residential customer usage. Such declining use tends to free up back bone capacity.

IV Concerns with the Buy-in-methodology.

Q. 24 What is the theory behind the SDC Buy-in-method?

A. The theory is:

The Buy-in method is typically used where there is sufficient capacity in the existing system such that it is capable of meeting both near-term and long-term capacity needs. Under the buy-in methodology a new development "buys" a proportionate share of the capacity at cost(value) of the existing facilities. It is important to note that while this methodology is labeled a *Buy-in method*, payment of an STC does not transfer or in part ownership of the assets to the customer." *M-1 Manual* p. 333.

Q. 25 Should there be concerns with that theory of new development buying into the current equity of municipal utility plant?

A. I believe there are several bases for concern.

First it asks new customers to pay for existing utility back bone plant capacity, that at the same time those new customers will in base rates be paying for the same plant's depreciation, debt service, repair and maintenance. That is a double recovery of capital costs.

Second, it calculates a hypothetical value of the back bone plant capacity for a new customer on an imaginary "buy-in" basis. But the buy-in-method is specifically applicable where the utility has more capacity than needed. The non-imaginary reality is those incremental new customers will be taking service from a plant that has available unused capacity. Thus such new customers will through paying base rates be making new contribution to that plant's fixed capital cost recovery, reducing the contribution that other customers will have to pay. Rather than discouraging new customers with a hypothetical equity charge, the utility with available capacity should be happy that new customers are hooking onto their system, decreasing the level of inadequate and or declining sales, using available capacity. Such new customers through base rates will contribute to fixed cost recovery, that in turn lowers the fixed cost rate contribution needed from other customers.

Third, A new customer will through base rates for service pay for the capital and variable costs of backbone plant today and in the future. To ask that new customer to pay for its share of past costs of backbone system equity investment is a form of retroactive ratemaking. Those past capital costs were paid by past customers to create that current equity component of the system. It is the equity component of the system because it is already paid for. The SDC buy-in method asks new customers to pay for that same paid for plant yet again.

Lastly, the entire "buy-in method" is a hypothetical creation to generate revenue from new customers, based on the untenable assertion that a new customer must buy its equity share of existing available capacity. Utility customers do not own any share of the utility through service from that utility. Customers may not buy municipal utility equity. They buy service that must be reasonably priced.

Q. 26 In sum what is your position?

A. For the many reasons stated, under no circumstance should any Fort Wayne SDC be charged to New Haven's water utility or its customers. There is good reason to disapprove the proposed SDC in its entirety. However, if approved for customers other than New Haven it should be reduced to reflect the plant value reductions and avoid the double recoveries I previously described.

Q. 27 **Does this conclude your testimony?**

A. Yes, at this time.

VERIFICATION

I affirm under the penalties of perjury that the contents of my attached testimony to the best of my knowledge are true and accurate.

Gregory Guerrettaz

10/11/18
Date

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Testimony was served upon the following by electronic delivery this 12th day of October 2018, to:

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