

ORIGINAL

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

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF)
THE CITY OF FORT WAYNE, INDIANA) CAUSE NO. 45777
FOR EXPEDITED APPROVAL TO ISSUE)
LONG-TERM DEBT) APPROVED: MAR 22 2023

ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
Jennifer L. Schuster, Senior Administrative Law Judge

On September 30, 2022, the City of Fort Wayne, Indiana (“Fort Wayne” or “Petitioner”) filed its Petition in this Cause with the Indiana Utility Regulatory Commission (“Commission”), requesting approval to issue long-term debt. Also on September 30, 2022, Petitioner filed the testimony and exhibits of Andrew G. Schipper, Manager of Water Engineering for Fort Wayne City Utilities, and Eric J. Walsh, a Certified Public Accountant and partner in the firm of Baker Tilly Municipal Advisors, LLC.

On December 1, 2022, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed the testimony and exhibit of Shawn Dellinger, Senior Utility Analyst in the OUCC’s Water/Wastewater Division. On December 6, 2022, Petitioner filed Mr. Walsh’s rebuttal testimony.

The Commission held an evidentiary hearing in this Cause at 1:30 p.m. on January 18, 2023, in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Counsel for the Petitioner and OUCC appeared at and participated in the hearing. The testimony and exhibits of the Petitioner and OUCC were admitted into the record without objection.

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

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published by the Commission as required by law. Fort Wayne owns, operates, manages, and controls water production, treatment, transmission, and water distribution facilities, as well as land, land rights, equipment, materials, supplies, working capital, and other property that are used and useful for the rendering of potable water and fire protection service to its customers. Accordingly, Fort Wayne’s water utility is a municipally owned utility as defined by Ind. Code § 8-1-2-1(h) that is subject to the jurisdiction of the Commission with respect to its proposal to issue long-term debt. *See* Ind. Code § 8-1.5-2-19.

2. Petitioner’s Characteristics. Fort Wayne is an Indiana municipality and political subdivision of the state of Indiana that operates a water utility pursuant to Ind. Code ch. 8-1.5-3. The office for Fort Wayne’s municipal water utility is located at 200 East Berry Street, Suite 270,

Fort Wayne, Indiana. Fort Wayne’s water utility is a municipally owned utility as defined by Ind. Code § 8-1.5-1-10(2) that serves approximately 109,000 residential, commercial, industrial, wholesale, irrigation, and fire protection customer accounts.

3. Relief Requested. Petitioner proposes to incur long-term debt in an amount not to exceed \$13,000,000 through a subsidized loan from the Drinking Water State Revolving Fund Loan Program (“SRF Program”). The proceeds from the debt will primarily be used to pay for the replacement of lead service lines and other necessary extensions, replacements, and improvements to its waterworks system. To qualify for the subsidized SRF Program loan, Petitioner must close on the debt on or before June 30, 2023.

4. Petitioner’s Case-in-Chief.

A. Mr. Schipper. Mr. Schipper testified that he oversees all capital planning, design, construction, and project management services for Fort Wayne’s municipal water utility. He discussed Fort Wayne’s existing water facilities and the need for and estimated costs of Fort Wayne’s proposed system improvements.

Mr. Schipper testified that Fort Wayne’s primary source of supply consists of impoundment of water from the St. Joseph River and three reservoirs providing capacity of about 473 million gallons (“MG”) in the Cedarville Reservoir, 260 MG in the St. Joseph River Dam Reservoir, and nearly 1.9 billion gallons in the Hurshtown Reservoir. The raw water is then treated at the Three Rivers Filtration Plant (“Filtration Plant”), which has a design capacity of 72 million gallons per day (“MGD”), with on-site finished water storage of 20 MG and high service pumping capacity of approximately 134 MGD. Mr. Schipper also testified that Fort Wayne has nine elevated storage tanks currently in service and is in the process of building a tenth storage tank, which ensure adequate water quantity and pressure for Petitioner’s customers. Upon the completion of the tenth storage tank, Fort Wayne will have a combined elevated storage capacity of approximately 11 MG. He also testified Petitioner has two prestressed concrete ground storage reservoirs with a total storage capacity of 8 MG.

Fort Wayne uses six booster pumping stations, including the Northwest Pump Station #1 and Northwest Pump Station #2, which work together to provide adequate pressure to serve industrial parks, hospitals, several residential areas, and other large commercial customers on the northwest side of Fort Wayne. He also testified that the Southwest Pump Station near the Fort Wayne International Airport services the General Motors Truck Plant and other industrial areas near the airport, while the West Pump Station provides increased pressure to customers in the west pressure zone. Further, the Coldwater Pump Station and Summit Pump station work together to provide increased pressure to customers within the Summit pressure zone.

Mr. Schipper testified that Fort Wayne has identified (per current projections) approximately 14,500 customers that have lead service lines. In Cause No. 45125, Fort Wayne requested and received Commission approval of a capital improvement plan (“CIP”) which provided for a relatively small number of lead service line replacements as part of its “pay-as-you-go” CIP. According to Mr. Schipper, Fort Wayne has averaged approximately 227 full lead service replacements per year from 2019-2021.

Mr. Schipper stated that the SRF Program offered a financing package that would allow Fort Wayne to immediately replace approximately 2,100 service lines (“Project”) and, in turn, enable Fort Wayne to more rapidly address this public health concern. Mr. Schipper explained that Fort Wayne built a model that prioritizes the greatest need for lead service line replacement based on median household income, the percentage of the population under 17 years old, the number of renter-occupied units, previous lead service line sampling results, and the percentage of homes estimated to have lead services.

Mr. Schipper stated that he prepared a preliminary engineering report dated March 2022 (“PER”) describing the individual components of the Project and the estimated costs of completing the same. The PER was submitted to the SRF Program as part of the application for the proposed financial package. The PER includes sections identifying the scope of the replacements, project costs, project schedule, and recommended project areas. However, Mr. Schipper testified that the service areas set forth in the PER had changed since March 2022 because of Fort Wayne’s acquisition of the Allen County Regional Water and Sewer District (“District”). Through an interlocal agreement, Fort Wayne was granted the right to provide service to the District’s existing customers. Thus, Mr. Schipper testified that Fort Wayne’s 20-year service area is larger than what is described in the PER and provided an updated service territory map.

Mr. Schipper testified that, on September 13, 2022, the Fort Wayne Board of Public Works approved an ordinance, Bill No. S-22-09-19 (“Bond Ordinance”) and recommended that the Fort Wayne Common Council approve the same. On September 27, 2022, the Fort Wayne Common Council approved the Bond Ordinance.

Mr. Schipper also testified that Fort Wayne anticipates closing with the SRF Program in June 2023. After that, Fort Wayne anticipates that the contractor will require approximately two years to complete the Project. He also testified that the Project and other improvements are necessary for the utility to provide safe and efficient service to its customers by reducing possible lead exposure to Fort Wayne customers. Mr. Schipper also testified that the costs for this Project are typical based on Fort Wayne’s historical data, and therefore he believed that the estimated costs for the Project are reasonable.

Mr. Schipper testified that the replacement of lead service lines will increase the quality of life for many Fort Wayne customers. He noted the challenges of securing permission to work on private property and preparing costs to replace lines takes significant outreach and Project administration efforts. He testified that Fort Wayne does not anticipate that every property owner with a lead service line will take advantage of this program, but Fort Wayne will encourage 100% customer participation.

Mr. Schipper concluded that Fort Wayne plans on eventually replacing all 14,500 lead service lines on its system. The Project will result in the replacement of 2,100 service lines, which is approximately 15% of the total. He further testified that Fort Wayne intends to include lead service line replacements in its prospective CIPs and continue to seek grants and low interest loans from the SRF Program and other funding agencies to try to expedite the replacement process.

B. Mr. Walsh. Mr. Walsh testified that Fort Wayne seeks to issue long-term debt and use the proceeds to replace some of its customers' lead service lines. Specifically, he testified that Fort Wayne proposes to enter into a subsidized, long-term loan and forgivable three-year Bond Anticipation Note ("BAN") with the SRF Program. Mr. Walsh testified that the Fort Wayne Board of Works and the Common Council adopted the Bond Ordinance, which specifically approved the Project and authorized the issuance of long-term debt to the SRF Program, subject to the approval of the Commission.

In connection with the Project and the proposed financing, Mr. Walsh testified he was hired to: (1) advise Fort Wayne on its financing options for the Project; (2) to determine if the existing rates and charges were sufficient to support its proforma revenue requirements, including long-term financing; and (3) provide the necessary schedules for seeking financing approval from the Commission and the SRF Program. To this end, Mr. Walsh testified his firm prepared a Financing Report dated September 30, 2022 ("Financing Report") which summarized the results of his analyses and studies. Mr. Walsh explained that Fort Wayne can complete the financing without adjusting its current rates.

Mr. Walsh testified that the funding for the Project will come from a \$8,953,040 grant in the form of a forgivable BAN, and the remainder of the Project (\$2,237,015) will be funded through a 35-year loan with the SRF Program at a 0% interest rate. He also testified that, due to its debt service savings from its 2019 and 2021 bonds, Fort Wayne can complete the Project (and proposed financing) while staying within its debt service allowance originally approved in 2018 and amended in 2022.

Mr. Walsh explained that the actual cost of the Project is unknown given the uncertainties with the actual construction bids. He stated that Fort Wayne anticipates filing a true-up calculation, but not in the traditional sense since a rate adjustment is not proposed in this case. Given this, Fort Wayne will conduct an analysis after finalizing bids to verify that Fort Wayne's existing rates remain sufficient to close with the SRF Program. However, if bids come in higher than the estimates in the PER resulting in higher than anticipated repayment costs, Fort Wayne has a \$250,000 allowance for lead service line replacements in its existing extensions and replacements revenue requirement for ongoing lead service replacements outside the Project, which could be leveraged to cover higher bid amounts. Mr. Walsh also testified that Fort Wayne authorized borrowing authority not to exceed \$13,000,000, and the estimated Project costs \$11,191,300. Thus, Fort Wayne will be able borrow additional funds from the SRF Program to complete the Project if actual costs exceed the projected costs.

Mr. Walsh opined that the terms of the financing with the SRF Program are fair and reasonable, given that the bulk of the financing is effectively a grant, and the remaining portion is a loan with a zero percent interest rate. He also testified that the proposed financing is in the public interest, as lead service line replacements funded through the SRF Program address public health concerns with much better terms than what Fort Wayne could find on the open market.

5. OUC's Evidence. Mr. Dellinger recommended that the Commission approve Fort Wayne's request for financing authority up to \$13,000,000 in long-term debt from Indiana's SRF Program.

Mr. Dellinger testified that Fort Wayne proposes to use the proposed debt issuance to complete the Project including all soft costs. He explained that Fort Wayne has requested an additional \$1.8 million in debt authority in the case of increased Project costs.

Mr. Dellinger testified that, based on his understanding of the program, for the customer side of the lead service line to be replaced, a customer would either (1) pay a one-time charge based on the actual marginal cost of replacing the customer's side of the service line subject to a cap or (2) finance this charge through the utility over ten years at an interest rate of 7.5%.

Mr. Dellinger testified that he supports Fort Wayne's request for borrowing authority and recommends that the Commission approve the same.

In addition, Mr. Dellinger agreed that the precise composition of Fort Wayne's proposed borrowing is not known at this time. Because there is no immediate rate impact anticipated with this debt, he further agreed that there should not be a traditional "true-up" in this case. However, Mr. Dellinger testified that Fort Wayne should be required to submit a report to the Commission and the OUCC within 30 days of closing that details the terms of the financing and itemizes all issuance costs. The OUCC also proposed that within 30 days of knowing when the BAN has been forgiven, Fort Wayne should notify the Commission and OUCC.

The OUCC also proposed that Fort Wayne should include in its annual report to the Commission the number of lead line replacements it completed in the reported year and the total costs incurred by Fort Wayne for all such replacements. The OUCC proposed that Fort Wayne should separate this information for customer-owned lines and utility-owned lines. Finally, if the information is available, the OUCC proposed that Fort Wayne include in the annual report what percentage of customers are paying for the cost of the lead line replacement in one lump sum and what percentage are financing the cost.

6. Petitioner's Rebuttal. In his rebuttal testimony, Mr. Walsh addressed the reporting requirements proposed by Mr. Dellinger and agreed that Fort Wayne would comply with the same.

7. Commission Discussion and Findings. Based on our review of the evidence of record, we approve Fort Wayne's request for authority to incur long-term debt in the amount of \$13,000,000 through a subsidized loan with the SRF Program.

The evidence of record indicates that the parties have provided the Commission with sufficient information to determine that the public interest will be served by approving Fort Wayne's Petition. In its Petition, Fort Wayne proposes that the proceeds from the proposed debt issuance will be used to pay for approximately 2,100 lead service line replacements. In total, Fort Wayne estimates that there are approximately 14,500 lead service lines on its system, and Fort Wayne plans to replace all lead lines in its system through future improvement projects. As explained in Mr. Schipper's testimony, Fort Wayne has built a prioritization model that ranks census tracts based upon the greatest need for lead service line replacements. The model considers such factors as median household income, percentage of population under 17 years old, renter-occupied units, previously lead service line sampling results, and the percentage of homes

estimated to have lead services. Mr. Schipper stated that this model assists Fort Wayne in identifying higher-risk areas that should receive priority, which we find to be reasonable.

To accomplish the lead service line replacements, Fort Wayne has sought financing authority not to exceed \$13,000,000 with the SRF Program. The record demonstrates that the SRF Program has offered a financing package that would allow Fort Wayne to immediately replace approximately 2,100 service lines, enabling it to address this public health concern more rapidly. Mr. Walsh testified that Fort Wayne can complete this proposed financing without adjusting its current rates and charges, and his Financing Report supports this statement. The total projected costs for the lead service line replacements identified in the PER are \$11,191,300. The Project funding will come from an \$8,953,040 grant in the form of a forgivable BAN and the remainder of the Project (\$2,237,015) will be funded through a 35-year loan with the SRF Program at a 0% interest rate. Mr. Walsh also testified that Fort Wayne had debt service savings from its 2019 and 2021 bonds, which will allow Fort Wayne to stay within its debt service allowance originally approved in 2018 and amended in 2022. He also testified that, should actual costs of the project exceed the projected total cost of \$11,191,300, Fort Wayne can borrow additional funds from the SRF Program or use existing extensions and replacements funds to complete the lead service line replacements.

We find that the record supports Fort Wayne's decision to replace its existing lead service lines, as such replacements will benefit the public health, safety, and welfare of the Fort Wayne community. We find that Fort Wayne's funding with the SRF Program is likely to result in lower financing costs than other financing options, given the SRF's substantial grant and 0% interest rate on the remaining funding for the Project. In addition, we also find that Fort Wayne's current rates and charges will provide sufficient revenue for this proposed debt issuance in compliance with Ind. Code § 8-1.5-2-19. Therefore, based on the evidence presented, the Commission finds Fort Wayne's proposed improvements identified in the PER and the proposed method of funding these improvements through the issuance of up to \$13,000,000 are reasonable.

Because Fort Wayne is not seeking to amend its rates and charges in this Cause, we find a traditional true-up calculation filing to be inapplicable in this case. However, we do believe some reporting requirements are appropriate. In Mr. Dellinger's testimony, the OUCC proposed a three-part reporting requirement for Fort Wayne with which Fort Wayne agreed to comply. The Commission finds this to be a reasonable requirement, given the nature of the financing methods requested in this Cause. Therefore, Fort Wayne must submit a report to the Commission and the OUCC within 30 days of closing on the forgivable and zero-percent loans with the SRF Program that details the terms and amounts of the borrowing and itemizes all issuance costs. Second, within 30 days of knowing when the BAN has been forgiven, Fort Wayne should notify the Commission and the OUCC. Third, Fort Wayne must include the following information in its annual report filed with the Commission: (1) the number of lead line replacements it completed in the reported year and (2) the total costs incurred by Fort Wayne for all lead line replacements. Fort Wayne should also provide separate information in its annual report for customer-owned lines and utility-owned lines, and, if the information is available, the percentages of customers paying for the cost of the lead line replacement in one lump sum and financing the replacement cost.

Based on the evidence of record, we conclude that Fort Wayne's request for authority to incur long-term debt in the amount of \$13,000,000 to the SRF Program is in the public interest and is hereby approved.

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

1. Petitioner is authorized to issue long-term debt in an amount not to exceed \$13,000,000 to the Drinking Water State Revolving Fund Loan Program under the general terms and conditions provided herein. The proceeds from the debt will be used to pay for the replacement of lead service lines and other necessary extensions, replacements, and improvements to its waterworks system.

2. Petitioner shall submit a report to the Commission and the OUCC within 30 days of closing on the forgivable and zero-percent loans with the SRF Program that details the terms and amounts of the borrowing and itemizes all issuance costs.

3. Within 30 days of the date of BAN forgiveness, Fort Wayne should notify the Commission and the OUCC.

4. Petitioner must include the following information in its annual report filed with the Commission: (1) the number of lead line replacements it completed in the reported year and (2) the total costs incurred by Fort Wayne for all lead line replacements. Fort Wayne should also provide separate information in its annual report for customer-owned lines and utility-owned lines, and, if the information is available, the percentages of customers paying for the cost of the lead line replacement in one lump sum and financing the replacement cost.

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

HUSTON, FREEMAN, KREVDA, VELETA, AND ZIEGNER CONCUR:

APPROVED: MAR 22 2023

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

**Dana Kosco
Secretary of the Commission**