

FILED

December 08, 2017

INDIANA UTILITY

REGULATORY COMMISSION

**Petitioner's Exhibit No. 1R**

**CITY OF SOUTH BEND, INDIANA**

**IURC CAUSE NO. 44951**

**REBUTTAL TESTIMONY**

**OF**

**ERIC HORVATH**

1       **1.Q.     Please state your name.**

2       A.     My name is Eric Horvath.

4       **2.Q.     Are you the same Eric Horvath who submitted direct testimony in this Cause?**

5       A.     Yes.

7       **3.Q.     What is the purpose of your rebuttal testimony?**

8       A.     The purpose of my rebuttal testimony is to respond to the recommendations made by  
9             the Indiana Office of Utility Consumer Counselor ("OUCC") in this case, including  
10            statements made by Edward R. Kaufman of the Indiana Office of Utility Consumer  
11            Counselor ("OUCC") criticizing South Bend's decision not to issue additional debt to  
12            fund its Capital Improvement Program. In addition, I respond to the recommendation  
13            from OUCC witness Margaret A. Stull that the Commission require South Bend to  
14            file a rate case within five (5) years.

16       **4.Q.     What was the OUCC's ultimate recommendation in this case?**

17       A.     Despite providing testimony from Carl Seals that the proposed capital improvement  
18             projects are reasonable and necessary for the continued provision of reliable service  
19             (Seals at pp. 1 and 8), the OUCC recommends a reduction to South Bend's proposed  
20             revenue requirement based on a proposal to issue long-term debt that will not fully  
21             fund the capital improvement projects its own witness found to be reasonable and  
22             necessary.

1       **5.Q. What is your response to the OUCC's overall recommendation?**

2       A.     The OUCC has provided no justification for its proposed reduction to the revenue  
3             requirement supporting the rate increase South Bend seeks in this case. They agree  
4             that the capital improvement projects are needed – even adding a project – and they  
5             also appear to recognize that the Common Council of the City of South Bend adopted  
6             a rate increase less than what would be needed to fully fund those projects in order to  
7             reasonably balance the interests of funding those projects while mitigating the rate  
8             increase needed to fund them. The OUCC's position fails to fully take into account  
9             certain aspects of the local process for setting rates and issuing debt, as well as the  
10            Commission's role in approving those actions by the City.

11       **6.Q. What aspects of the local process do you believe the OUCC has not taken into**  
12       **account?**

13       A.     The City Council must approve a rate increase. South Bend's last rate increase was  
14             approved by the Commission 11 years ago, in 2006 (Cause No. 42779). The City has  
15             managed to delay a rate increase by reducing expenses, but needed improvements and  
16             replacements have been deferred since that time. Nevertheless, the City has been  
17             mindful of the growing need to make improvements and replacements to the system.  
18             As explained in my direct testimony, the time has come when a rate increase can no  
19             longer be delayed. Even so, the Council and the Mayor are concerned about  
20             increasing rates to South Bend's customers and have accordingly limited the  
21             requested increase in this case to an amount considered by the Council to be a  
22             reasonable balance between the funding needs and the desire to mitigate the impact  
23             on ratepayers. As a part of this strategy, the City has committed to provide tax

1 increment financing (TIF) funds to finance capital improvements until the second step  
2 is fully in place. This is part of a comprehensive strategy determined by the Council  
3 and the Mayor. The issuance of debt that the OUCC seeks to have the Commission  
4 impose can *only* occur with the authorization of the City Council. Although Mr.  
5 Kaufman outlines in his testimony what steps would be required for a debt financing  
6 (p. 6, lines 4-13), he fails to address what steps are required for authorization or  
7 action at the local level. The Council has not chosen to authorize the long-term debt  
8 the OUCC seeks to have the Commission order.

9 **7.Q. Why has the Council not authorized the issuance of additional long-term debt in**  
10 **conjunction with this request for a rate increase?**

11 A. As explained in South Bend's response to the OUCC's DR 3.2, sponsored by Mr.  
12 Kaufman as Attachment ERK-1, South Bend's practice has been to set rates based on  
13 its capital improvements budget and issue bonds between rate cases with Commission  
14 approval when circumstances allow. As Eric Walsh explains in greater detail in his  
15 rebuttal testimony, this approach allows South Bend to remain nimble in responding  
16 to changes in the financial markets and prevents the City from over-leveraging itself.  
17 The Council has opted not to pursue that avenue at this time. That is not a  
18 determination the Commission may override.

19  
20 **8.Q. You stated that the OUCC's position fails to fully take into account certain**  
21 **aspects of the local process for setting rates and issuing debt, as well as the**  
22 **Commission's role in approving those actions by the City. What do you**  
23 **understand to be the Commission's role in approving the actions by the City?**

1       A.   This case is before the Commission seeking authorization for the City to increase the  
2           rates and charges for water service as adopted by the Common Council. As noted  
3           above, if the Common Council has not pursued a bond issuance, then the question of  
4           approval of a bond issuance is not properly before the Commission, and the  
5           Commission is without jurisdiction to force such an issuance.

6  
7       **9.Q. Are there other aspects of the Commission's role in this proceeding that you**  
8       **believe the OUCC has not properly considered?**

9       A.   Yes. On pages 8-10 of her testimony, OUCC witness Stull recommends that South  
10          Bend be required to file its next general rate case in five (5) years, which will allow  
11          South Bend time to implement its capital improvement plan and "determine the  
12          operating and maintenance expenses it will incur under normal operating conditions."  
13          (p. 9, lines 8-10). The timing of South Bend's next rate case is for the Common  
14          Council to decide, and I am not aware of any statutory authority that would permit the  
15          Commission to require South Bend to file a rate case at any specific time.

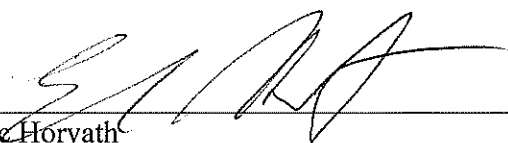
16  
17          In addition, as discussed in Mr. Walsh's rebuttal testimony, I believe the OUCC has  
18          misstated the application of the NARUC USoA to Petitioner's accounting.

19  
20       **10.Q. Does this conclude your rebuttal testimony in this Cause?**

21       A.   Yes, it does.

### VERIFICATION

I, Eric Horvath, Executive Director of Public Works for the City of South Bend, Indiana, affirm under penalties of perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.

  
Eric Horvath

Date: 12/8/17