



INDIANA UTILITY REGULATORY COMMISSION

IN RE: THE MATTER OF THE PETITION )
OF CHIMNEYWOOD SEWAGE WORKS, )
INC., AND WYMBERLEY SANITARY )
WORKS, INC. FOR A NEW SCHEDULE OF )
RATES AND CHARGES )

CAUSE NO. 42877-U

FINAL ORDER

APPROVED: MAR 22 2006

BY THE COMMISSION:

Larry S. Landis, Commissioner
Lorraine Hitz-Bradley, Administrative Law Judge

On July 1, 2005, Wymberley Sanitary Works, Inc. and Chimneywood Sewage Works, Inc. ("Petitioners"), small utilities that provide sewage processing, filed with the Indiana Utility Regulatory Commission ("Commission") a Small Utility Application for a Rate Change pursuant to Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. The Petitioners sought a two-step rate increase; in the first year, the charge will increase to \$60 per month, and in the second and subsequent years, will increase to \$80 per month. The Petitioners also requested authority for a \$2,800 per Equivalent Dwelling Unit ("EDU")<sup>1</sup> capacity charge, of which \$800 would be booked as revenue.

On July 12, 2005, Petitioners filed their Proofs of Publication. On July 22, 2005, Petitioners provided additional information in response to questions from the Commission's Gas, Water and Sewer Division. In response to requests for a public hearing, on July 18, 2005, the Commission set a Prehearing Conference for September 19, 2005. On September 1, 2005, the Parties filed their Stipulation of Procedural Schedule which was adopted by the Commission by a docket entry on September 8, 2005, vacating the September 19, 2005 hearing.

On September 28, 2005, Petitioners prefiled their testimony and exhibits. Pursuant to a modification of the procedural schedule, the OUCC prefiled its evidence and exhibits on December 16, 2005 and Petitioners prefiled their rebuttal testimony on January 9, 2006.

Pursuant to notice duly given and published, the Presiding Officers conducted a field hearing at Floyd Central High School, Floyd Knobs, Indiana, at 6:30 p.m., November 21, 2005, at which the parties and members of the public appeared. The OUCC offered several exhibits at the field hearing.

Petitioners and the OUCC reached and entered into a Settlement Agreement and jointly filed with the Commission on January 13, 2006 their Joint Stipulation and Settlement Agreement ("Agreement") and supplemental testimony.

<sup>1</sup> An "equivalent dwelling unit" refers to any unit used as a single-family dwelling.

Pursuant to notice, duly published as required by law, an evidentiary hearing was convened at 9:30 a.m. EST in Room E306 of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana on January 19, 2006. Petitioners and the OUCC appeared and participated. The parties jointly offered into evidence the Agreement as Joint Exhibit 1. Pursuant to the Agreement, all the testimony and exhibits that had been prefiled were admitted into evidence without objection and each party waived cross examination.

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

1. **Notice and Jurisdiction.** The evidence presented reflects that legal notice of the filing of this small utility rate case was published in accordance with applicable law and that Petitioners gave proper notice to its customers of the nature and extent of the proposed rate increase. Notices of the Commission's hearings were given as required by law.

2. **Test Year.** The test period selected for determining Petitioners' revenues and expenses reasonably incurred in providing sewer disposal service includes the twelve (12) months ending December 31, 2004. The Commission finds that this test period sufficiently representative of Petitioners' normal operations to provide reliable data for ratemaking purposes.

3. **Petitioners' characteristics.** Wymberley Sanitary Works, Inc., (Wymberley) is a small sewage disposal utility providing service to approximately 367 residential customers. Chimneywood Sewage Works, Inc., (Chimneywood) is a small sewage disposal utility providing service to 28 residential customers in the Chimneywood Subdivision. Both Wymberley and Chimneywood are subsidiaries of Aqua Indiana, Inc. (Aqua Indiana). Aqua Indiana is a subsidiary of Aqua America, Inc. (Aqua America). Wymberley and Chimneywood each holds a Certificate of Territorial Authority (CTA) issued by this Commission authorizing them to provide sewage disposal service in unincorporated areas of Floyd County, Indiana.

4. **Relief Requested and Prefiled Testimony.** The rates collected by Wymberley have remained unchanged for many years. For customers of the former Country View Sewage Plant (Country View) within the Wymberley system, they last changed in 1981, and for the remaining Wymberley customers, the last change was in 1986. The rates for the Chimneywood system were last changed December 26, 2002. While stating that they believed that the evidence would support a greater increase, Petitioners requested a two-step increase, calling for a rate of \$60 per month in the first year and \$80 per month in the second and subsequent years as a single tariff for Wymberley and Chimneywood. The Petitioners also requested authority for a \$2,800/EDU capacity charge, booking \$800 of the charge as revenue.

The OUCC's testimony indicated that Petitioners' financial information would support a monthly rate of \$115. The OUCC questioned the Petitioners' service contract with Aqua Utility Service, the booking of \$800 of the \$2,800/EDU capacity charge as revenue, and the characterization of the proposed rates as a single tariff.

In rebuttal, Petitioners agreed to place any future service contract similar to the Aqua Utility Service contract out for competitive bid, to book all of the \$2,800/EDU capacity charge as Contribution in Aid of Construction and to study the feasibility of a single tariff for all of Aqua Indiana's utility operations.

5. **Capital Structure.** Petitioner's capital structure at the time of the test year cut off date was 100% equity. Petitioner and the OUCC agreed to a capital structure of 50% equity and 50% debt because it was a more typical ratio for sewer utilities. The Commission prefers not to consider hypothetical capital structures when establishing rates. Due to the fact that Petitioner's capital structure is 100% equity, which would be unreasonable for rate making, the Commission will allow a capital structure of 50% equity and 50% debt. The methodology considered in establishing this capital structure should not be considered as precedent for future rate cases. Petitioner's weighted cost of capital is 7.94%.

6. **Settlement.** Parties have agreed that Petitioners' proposed two-step rate increase should be approved; that all of the capacity charge should be booked as Contribution in Aid of Construction, that Petitioners' parent should study the feasibility of a single tariff for utility operations in Indiana, and that Petitioners will not file a general rate case before July 1, 2009.

**Operating Results Under Present Rates Phase I & Phase II.**

	<u>Phase I</u>	<u>Phase II</u>
<b>Operating Revenues:</b>		
Sewer Revenues	\$146,762	\$306,574
Other Operating Revenues	<u>6,351</u>	<u>6,351</u>
Total	<u>\$153,113</u>	<u>\$312,925</u>
<b>Operating Expenses:</b>		
O&M Expense	\$229,121	\$232,142
Depreciation	55,440	55,440
Taxes Other Than Income	12,846	15,155
Income Taxes	<u>(76,737)</u>	<u>(14,133)</u>
Total	<u>\$220,670</u>	<u>\$288,604</u>
<b>Net Operating Income/(Loss)</b>	<u><b>\$(67,557)</b></u>	<u><b>\$ 24,321</b></u>

**Operating Results Under Proposed Rates Phase I & Phase II.**

	<b><u>Phase I</u></b>	<b><u>Phase II</u></b>
<b>Operating Revenues:</b>		
Total Revenues	<u>\$305,725</u>	<u>\$412,525</u>
<b>Operating Expenses:</b>		
O&M Expense	\$232,142	\$234,114
Depreciation	55,440	55,440
Taxes Other Than Income	15,155	16,661
Income Taxes	<u>(17,051)</u>	<u>24,820</u>
Total	<u>\$285,686</u>	<u>\$331,035</u>
<b>Net Operating Income</b>	<b><u>\$ 20,039</u></b>	<b><u>\$ 81,490</u></b>

Petitioners' evidence indicated that a 7.94% rate of return on Petitioners' \$2,081,895 Rate Base would result in a 271.73% revenue increase. Petitioner believes that the phasing in of the proposed rates is the best method of implementing the increase in a way that mitigates the impact on customers, but still allows Petitioner to earn a fair return on its investment. Petitioners' proposed rates are based on a 0.96% Rate of Return in Phase 1, constituting a 99.67% revenue increase for Phase I, and a 3.91% Rate of Return in Phase 2, constituting an additional 31.83% revenue increase for Phase II.

7. **Approval of Settlement.** Settlement agreements presented to this Commission differ from contracts to resolve disputes between private parties in other contexts. An order of this Commission must be based on specific findings, with a basis in the law as well as in the evidence of record. This mandate is reflected in our procedural rules, which direct settling parties to support their agreement with "probative evidence." 170 IAC 1-1.1-17(d).

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 § 8-1-2, and that such agreement serves the public interest.

We now find that the evidence in this cause supports our approval of the parties' Settlement. We specifically find that the Petitioner's current rates are insufficient, and that the public interest requires that we authorize the Petitioner to increase them in two steps, leading to a flat rate of \$60 per month in the first year and \$80 per month in the second and subsequent years.

The following table compares the existing vs. the new rates for the residential customers:

	<u>Existing</u>	<u>Phase I</u>	<u>Phase II</u>
Wymberley (w/o Country View)	\$32.00	\$60.00	\$80.00
Wymberley (w/ Country View)	\$25.00	\$60.00	\$80.00
Chimneywood	\$49.60	\$60.00	\$80.00

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 that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, (*Ind. Util. Reg. Comm'n*, March 19, 1997).

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

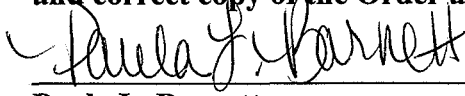
1. Petitioners shall be and hereby are authorized to increase their rates for sewer disposal utility service to \$60 per month in the first year and \$80 per month in the second and subsequent years.
2. Petitioners shall be and hereby are authorized to charge a capacity charge of \$2,800/EDU, which shall be booked as a contribution in aid of construction and deposited in a separate interest-bearing account.
3. Petitioners shall file with the Commission's Gas/Water/Sewer Division a new schedule of rates and charges before placing in effect the rate increase authorized herein, which schedules, when approved by that Division, shall be effective and replace Petitioners' previously approved schedules.
4. The Joint Stipulation and Settlement Agreement executed by the Parties and filed on January 13, 2006, shall be and hereby is approved without further modification.

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

**HADLEY, LANDIS AND SERVER CONCUR; HARDY, ZIEGNER ABSENT:**

**APPROVED: MAR 22 2006**

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



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**Paula L. Barnett**

**Acting Secretary to the Commission**

STATE OF INDIANA  
INDIANA UTILITY REGULATORY COMMISSION

IN RE: THE MATTER OF THE PETITION )  
OF CHIMNEYWOOD SEWAGE WORKS, )  
INC., AND WYMBERLEY SANITARY )  
WORKS, INC. FOR A NEW SCHEDULE OF )  
RATES AND CHARGES )

CAUSE NO. 42877-U

FILED

JAN 13 2006

INDIANA UTILITY  
REGULATORY COMMISSION

Testimony in Support of  
Settlement Agreement  
of  
Thomas M. Bruns

Sponsoring Joint Exhibit 1

IURC  
PETITIONER'S  
EXHIBIT NO. TMB-S  
1-19-06 UL  
DATE REPORTER

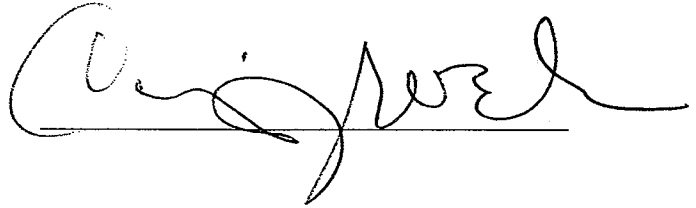
January 13, 2006

CERTIFICATE OF SERVICE

The undersigned certifies that on January 12, 2006, a copy of Testimony in

Support of Settlement Agreement of Thomas M. Bruns was served by hand delivery to:

Indiana Utility Consumer Counselor  
Indiana Government Center North  
100 N. Senate Avenue; Room N-501  
Indianapolis, Indiana 46204

A handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to read "C. Bruns".



1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Thomas M. Bruns. My business address is 8275 Allison Pointe Trail.,  
3 Suite 375, Indianapolis, Indiana 46250.

4 **Q. ARE YOU THE SAME THOMAS M. BRUNS WHO HAS PREVIOUSLY FILED**  
5 **TESTIMONY IN THIS CAUSE?**

6 A. Yes.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

8 A. I have responded to the testimony of Judy Gemmecke and Scott Bell of the Indiana  
9 Office of Utility Consumer Counselor ("OUCC") in my earlier rebuttal testimony. It  
10 became clear that the parties agreed that the Utilities' financial information supported a  
11 rate increase greater than the two-step increase requested in this case. As described in my  
12 rebuttal testimony, the Utilities were agreeable to implementing the OUCC's suggestion  
13 regarding competitive bidding for future service contracts similar to the service provided  
14 under the current Aqua Utility Service ("AUS") contract, taking steps to eliminate the  
15 payment of sales tax, the accounting treatment of the capacity charge and studying the  
16 feasibility of a single tariff. With the numerous agreements between the Parties, it  
17 appeared that this case was appropriate for settlement, thus I am sponsoring the Parties'  
18 Settlement Agreement, Joint Exhibit 1.

19 **Q. PLEASE DESCRIBE JOINT EXHIBIT 1.**

20 A. Joint Exhibit 1 is the Settlement Agreement entered into between the OUCC and Utilities.  
21 It appeared obvious from the testimony that the Utilities' requested two-step rate increase

1 was well supported by their financial records. Usually, in a rate case the amount of the  
2 rate increase is one of the principal areas of dispute. I believed that since the Utilities  
3 agreed with the OUCC's suggestions regarding the AUS contract, and sales tax issues and  
4 was willing to study single tariff pricing, and the OUCC agreed that the two-step rates  
5 were supported by the record, that a settlement was appropriate. In addition to the  
6 agreement on the above issues, to mitigate the impact of the rate increase, the Utilities  
7 further agreed to implementing a moratorium on the filing of a general rate case until  
8 July 1, 2009, or four years following the date this current case was filed. Joint Exhibit 1  
9 reflects the Parties' settlement of the agreed issues and provides a rate moratorium for the  
10 benefit of the Utilities' customers. It also includes an agreed proposed order. The Parties  
11 believe this settlement is in the best interests of the OUCC, the Utilities and its  
12 customers.

13 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

14 **A. Yes.**

STATE OF INDIANA  
INDIANA UTILITY REGULATORY COMMISSION

IN RE: THE MATTER OF THE PETITION )  
OF CHIMNEYWOOD SEWAGE WORKS, )  
INC., AND WYMBERLEY SANITARY ) CAUSE NO. 42877-U  
WORKS, INC. FOR A NEW SCHEDULE OF )  
RATES AND CHARGES )  
)

JOINT STIPULATION AND SETTLEMENT AGREEMENT

The Petitioners, Wymberley Sanitary Works, Inc. and Chimneywood Sewage Works, Inc. ("Utilities"), and the only other party to this case, the Indiana Office of Utility Consumer Counselor ("OUCC") (collectively "Parties"), have reached a settlement of the issues in this case ("Agreement") in which they agree and stipulate:

1. Amount of Stipulated Rate Increase. The OUCC and the Utilities stipulate and agree that the Utilities' current rates and charges are inadequate. The Utilities have requested a two-step rate increase making rates \$60 in the first year and \$80 in the second and subsequent years. The OUCC's evidence established that the Utilities' financial information would support a monthly rate of \$115. The Parties agree that a rate increase of that magnitude would constitute "rate shock" and thus the Parties agree to the Utilities' request for the two-step rate increase of \$60 and \$80. The Parties also agree to Utilities' request for a \$2,800/EDU capacity charge.
2. Accounting of Capacity Charge. Utilities agree with the OUCC's position on the booking of the \$2,800/EDU as Contribution in Aid of Construction.
3. Rate Moratorium. Utilities agree not to file a general rate case sooner than July 1, 2009.

4. Single Tariff Rate Study. The Utilities agree to study the feasibility of a single tariff for all of the utility operations of Utilities' parent Aqua Indiana. The rate moratorium discussed in paragraph 3 would not apply to any proceeding necessary to petition for a single tariff or brought under Ind. Code § 8-1-2-113 or successor statute.

5. Service Contracts. The Parties agree that any future service contracts providing services similar to those provided under the current Aqua Utility Service contract will be competitively bid.

6. Admission of Evidence. Each Party stipulates to the admission of the other's prefiled testimony and exhibits and waives cross examination. The Parties further agree to jointly sponsor this Agreement and to jointly sponsor any additional testimony and exhibits as may be reasonably necessary to support this Agreement.

7. Mutual Conditions on Agreement. The Utilities and the OUCC agree for the purposes of establishing new rates and charges for the Utilities, that the terms and conditions set forth in this Agreement are supported by the evidence and based on the Parties' independent review of the evidence, represent a fair, reasonable and just resolution of all the issues in this case, subject to their incorporation in the Final Commission Order in the form attached as the Proposed Order without modification or further condition which may be unacceptable to either Party. If the Commission does not approve this Agreement or does not issue the Final Order in the form attached as the Proposed Order in its entirety without modification, the entire Agreement shall be deemed withdrawn, unless otherwise agreed to by the Parties. The Parties represent that there are no other agreements in existence between them relating to the matters covered by this Agreement which in any way affect this Agreement.

8. Proposed Order. The Parties stipulate and agree to the issuance by the Commission of a Final Order to be provided at the hearing. Each description of an agreement by the Parties contained in the Proposed Order is incorporated herein by reference and is accepted by each of the Parties as it fully set hereof. Solely for the purposes of settlement, the Parties stipulate and agree that the terms, findings and ordering paragraphs of the Proposed Order constitute a fair, just and reasonable resolution of the issues raised in this case provided they are approved by the Commission in their entirety and without modification.

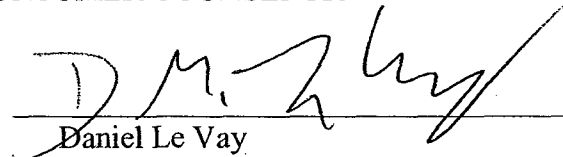
9. Non-precedential. The Parties condition their Agreement on the Commission providing the assurance in the Final Order issued herein that it is not the Commission's intent to allow this Agreement or the Order approving it to be used as an admission or as a precedent against the signatories hereto except to the extent necessary to enforce the terms of the Agreement. The Parties agree that this Agreement shall not be construed nor cited as precedent by any person or deemed an admission by any party in any other proceeding except as necessary to enforce the terms before the Commission, or before any Court of competent jurisdiction on these particular issues. This 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 either of the Parties may take with respect to any or all of the terms resolved herein in any future regulatory or other proceedings and, failing approval by this Commission, shall not be admissible in any subsequent proceedings.

10. Authority to Stipulate. The undersigned have represented and agreed that they are fully authorized to execute this Agreement on behalf of their designated clients who will be bound thereby.

Respectfully submitted,

INDIANA OFFICE OF UTILITY  
CONSUMER COUNSELOR

By:

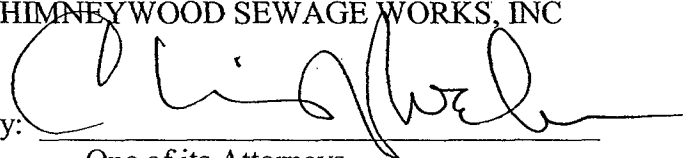


Daniel Le Vay

Assistant Consumer Counselor

WYMBERLEY SANITARY WORKS, INC. AND  
CHIMNEYWOOD SEWAGE WORKS, INC

By:



One of its Attorneys

Fred E. Schlegel

Christopher J. Weber

Baker & Daniels

300 North Meridian Street, Suite 2700

Indianapolis, Indiana 46204

**STATE OF INDIANA  
INDIANA UTILITY REGULATORY COMMISSION**

<b>IN RE: THE MATTER OF THE PETITION</b>	)	
<b>OF CHIMNEYWOOD SEWAGE WORKS,</b>	)	
<b>INC., AND WYMBERLEY SANITARY</b>	)	<b>CAUSE NO. 42877-U</b>
<b>WORKS, INC. FOR A NEW SCHEDULE OF</b>	)	
<b>RATES AND CHARGES</b>	)	
	)	<b>FINAL ORDER</b>

**BY THE COMMISSION:**

**Larry S. Landis, Commissioner**  
**Lorraine Hitz-Bradley, Administrative Law Judge**

On July 1, 2005, Wymberley Sanitary Works, Inc. and Chimneywood Sewage Works, Inc. ("Utilities"), small utilities that provide sewage processing, filed with the Indiana Utility Regulatory Commission ("Commission") a Small Utility Application for a Rate Change pursuant to Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. The Utilities sought a two-step rate increase; \$60 in the first year and \$80 in the second and subsequent years. The Utilities also requested authority for a \$2,800/EDU capacity charge of which \$800 would be booked as revenue.

On July 12, 2005, Utilities filed their Proofs of Publication. On July 22, 2005, Utilities provided additional information in response to questions from the Commission's Gas, Water and Sewer Division. In response to requests for a public hearing, on July 18, 2005, the Commission set a Prehearing Conference for September 19, 2005. On September 1, 2005, the Parties filed their Stipulation of Procedural Schedule which was adopted by the Commission by a docket entry on September 8, 2005, vacating the September 19, 2005 hearing.

On September 28, 2005, Utilities prefiled their testimony and exhibits. Pursuant to a modification of the procedural schedule, the OUCC prefiled its evidence and exhibits on December 16, 2005 and Utilities prefiled their rebuttal testimony on January 9, 2006.

Pursuant to notice duly given and published, the presiding officers conducted a field hearing at Floyd Central High School, Floyd Knobs, Indiana, at 6:30 p.m. (EST), November 21, 2005, at which the parties and members of the public appeared. The OUCC offered several exhibits at the field hearing.

Utilities and the OUCC reached and entered into a Settlement Agreement and jointly filed with the Commission on January 13, 2006 their Joint Stipulation and Settlement Agreement ("Agreement") and supplemental testimony.

Pursuant to notice, duly published as required by law, an evidentiary hearing was convened at 9:30 a.m. EST in Room 306 of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana on January 19, 2006. Utilities and the OUCC appeared and participated. The parties jointly offered into evidence as Joint Exhibit 1, the Agreement. Pursuant to the Agreement, all the testimony and exhibits that had been prefiled were admitted into evidence without objection and each party waived cross examination.

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

1. **Notice and Jurisdiction.** The evidence presented reflects that legal notice of the filing of this small utility rate case was published in accordance with applicable law and that Utilities gave proper notice to its customers of the nature and extent of the proposed rate increase. Notice of the Commission's hearings were given as required by law. Wymberley Sanitary Works, Inc., is a small sewage disposal utility providing service to approximately



367 residential customers. Chimneywood Sewage Works, Inc., is a small sewage disposal utility providing service to 28 residential customers in the Chimneywood Subdivision.

2. **Test Year.** The test period selected for determining Utilities' revenues and expenses reasonably incurred in providing sewer disposal service includes the twelve (12) months ending December 31, 2004. The Commission finds that this test period sufficiently representative of Utilities' normal operations to provide reliable data for ratemaking purposes.

3. **Relief Requested and Prefiled Testimony.** The rates collected by Wymberley have remained unchanged since 1981 for the Countryview customers within the Wymberley system and 1986 for the remaining Wymberley customers. The rates for the Chimneywood system were last changed December 26, 2002. While believing that the evidence would support a greater increase, Utilities requested a two-step increase, calling for a rate of \$60 in the first year and \$80 in the second and subsequent years as a single tariff for Wymberley and Chimneywood. The Utilities also requested authority for a \$2,800/EDU capacity charge, booking \$800 of the charge as revenue.

The OUCC's evidence showed that Utilities' financial information would support a monthly rate of \$115. The OUCC questioned the Utilities service contract with Aqua Utility Service, the booking of \$800 of the \$2,800/EDU capacity charge as revenue and the characterization of the proposed rates as a single tariff.

In rebuttal, Utilities agreed to place any future service contract similar to the Aqua Utility Service contract out for competitive bid, to book all of the \$2,800/EDU capacity charge as Contribution in Aid of Construction and would study the feasibility of a single tariff for all of Aqua Indiana's utility operations.

4. **Settlement.** Parties have agreed that Utilities' proposed two-step rate increase should be approved; that all of the capacity charge should be booked as Contribution in Aid of Construction , that Utilities' parent should study the feasibility of a single tariff for utility operations in Indiana and that Utilities will not file a general rate case sooner than July 1, 2009. This moratorium would not apply to any proceeding necessary to petition for a single tariff or to any proceeding brought under Ind. Code § 8-1-2-113 or any successor statute.

5. **Approval of Settlement.** Settlement agreements presented to this Commission differ from contracts to resolve disputes between private parties in other contexts. An order of this Commission must be based on specific findings with a basis in the law as well as in the evidence of record. This mandate is reflected in our procedural rules, which direct settling parties to support their agreement with "probative evidence." 170 IAC 1-1.1-17(d). We now find that the evidence in this cause supports our approval of the parties' Settlement. We specifically find that the Petitioner's current rates are insufficient, and that the public interest requires that we authorize the Petitioner to increase them in two steps; leading to a rate of \$60 in the first year and \$80 in the second and subsequent years.

We further acknowledge that the Settlement reflects the parties' compromise in order to resolve this particular case. Accordingly, we find that future citation to this order should be construed in a manner consistent with our finding in our final order approving a settlement agreement involving Richmond Power & Light, Cause No. 40434, which we issued on March 19, 1997.

**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY**

**REGULATORY COMMISSION that:**

1. Utilities shall be and hereby are authorized to increase their rates for sewer disposal utility service to \$60 in the first year and \$80 in the second and subsequent years.
2. Utilities shall be and hereby are authorized to charge a capacity charge of \$2,800/EDU, which shall be booked as a contribution in aid of construction.
3. Utilities shall file with the Commission's Gas/Water/Sewer Division a new schedule of rates and charges before placing in effect the rate increase authorized herein, which schedules, when approved by that Division, shall be effective and replace Utilities' previously approved schedules.
4. The Joint Stipulation and Settlement Agreement executed by the Parties and filed on January 13, 2006, shall be and hereby is approved without further modification.
5. This order shall be effective on and after the date of its approval.

**HARDY, HADLEY, LANDIS, SERVER AND ZIEGNER, CONCUR**  
**APPROVED:**

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

---

FILED

JAN 17 2006

STATE OF INDIANA  
INDIANA UTILITY REGULATORY COMMISSION INDIANA UTILITY  
REGULATORY COMMISSION

IN RE: THE MATTER OF THE PETITION )  
OF CHIMNEYWOOD SEWAGE WORKS, )  
INC., AND WYMBERLEY SANITARY ) CAUSE NO. 42877-U  
WORKS, INC. FOR A NEW SCHEDULE OF )  
RATES AND CHARGES )  
)

**SUBMISSION OF CORRECTIONS  
TO JOINT STIPULATION AND SETTLEMENT  
AGREEMENT AND JOINT EXHIBIT 1**

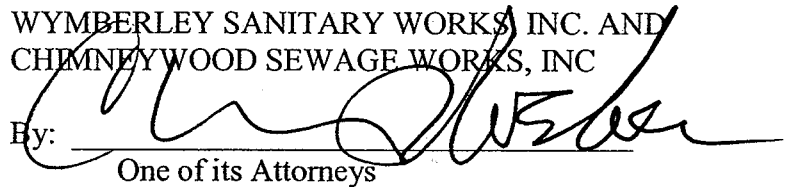
Comes now WyMBERley Sanitary Works, Inc. and Chimneywood Sewage Works,  
Inc. ("Utilities") and submits the following corrected pages:

1. Initial page of Joint Stipulation and Settlement Agreement;
2. Initial page, page 3 and page 5 of Joint Exhibit 1.


The original documents, filed with the Commission on January 13, 2006,  
inadvertently omitted that the Utilities' two step rate increase were for monthly rates. The  
Indiana Office of the Utility Commission Counselor has no objection to this submission.

Respectfully submitted,

WYMBERLEY SANITARY WORKS, INC. AND  
CHIMNEYWOOD SEWAGE WORKS, INC

By:   
One of its Attorneys

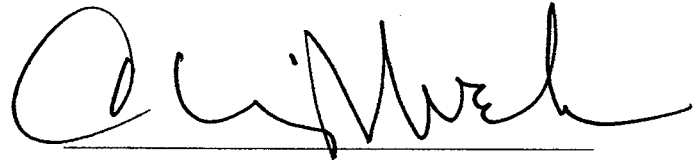
Fred E. Schlegel  
Christopher J. Weber  
Baker & Daniels  
300 North Meridian Street, Suite 2700  
Indianapolis, Indiana 46204

IURC  
PETITIONER'S  
EXHIBIT NO. TMB-5C  
1-19-06  
DATE REPORTER 

CERTIFICATE OF SERVICE

The undersigned certifies that on January 17, 2006, a copy of Submission of Corrections to Joint Stipulation and Settlement Agreement and Joint Exhibit 1 was served by hand delivery to:

Indiana Utility Consumer Counselor  
Indiana Government Center North  
100 N. Senate Avenue; Room N-501  
Indianapolis, Indiana 46204



A handwritten signature in black ink, appearing to read "C. J. Welch", is written over a horizontal line.

**STATE OF INDIANA  
INDIANA UTILITY REGULATORY COMMISSION**

<b>IN RE: THE MATTER OF THE PETITION</b>	)	
<b>OF CHIMNEYWOOD SEWAGE WORKS,</b>	)	
<b>INC., AND WYMBERLEY SANITARY</b>	)	<b>CAUSE NO. 42877-U</b>
<b>WORKS, INC. FOR A NEW SCHEDULE OF</b>	)	
<b>RATES AND CHARGES</b>	)	
	)	

**JOINT STIPULATION AND SETTLEMENT AGREEMENT**

The Petitioners, WyMBERLEY Sanitary Works, Inc. and Chimneywood Sewage Works, Inc. ("Utilities"), and the only other party to this case, the Indiana Office of Utility Consumer Counselor ("OUCC") (collectively "Parties"), have reached a settlement of the issues in this case ("Agreement") in which they agree and stipulate:

1. Amount of Stipulated Rate Increase. The OUCC and the Utilities stipulate and agree that the Utilities' current rates and charges are inadequate. The Utilities have requested a two-step rate increase making the monthly rates \$60 in the first year and \$80 in the second and subsequent years. The OUCC's evidence established that the Utilities' financial information would support a monthly rate of \$115. The Parties agree that a rate increase of that magnitude would constitute "rate shock" and thus the Parties agree to the Utilities' request for the two-step rate increase of \$60/month and \$80/month. The Parties also agree to Utilities' request for a \$2,800/EDU capacity charge.
2. Accounting of Capacity Charge. Utilities agree with the OUCC's position on the booking of the \$2,800/EDU as Contribution in Aid of Construction.
3. Rate Moratorium. Utilities agree not to file a general rate case sooner than July 1, 2009.

**STATE OF INDIANA  
INDIANA UTILITY REGULATORY COMMISSION**

<b>IN RE: THE MATTER OF THE PETITION</b>	)	
<b>OF CHIMNEYWOOD SEWAGE WORKS,</b>	)	
<b>INC., AND WYMBERLEY SANITARY</b>	)	<b>CAUSE NO. 42877-U</b>
<b>WORKS, INC. FOR A NEW SCHEDULE OF</b>	)	
<b>RATES AND CHARGES</b>	)	
	)	<b>FINAL ORDER</b>

**BY THE COMMISSION:**  
**Larry S. Landis, Commissioner**  
**Lorraine Hitz-Bradley, Administrative Law Judge**

On July 1, 2005, WyMBERLEY Sanitary Works, Inc. and Chimneywood Sewage Works, Inc. ("Utilities"), small utilities that provide sewage processing, filed with the Indiana Utility Regulatory Commission ("Commission") a Small Utility Application for a Rate Change pursuant to Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. The Utilities sought a two-step rate increase; \$60/month in the first year and \$80/month in the second and subsequent years. The Utilities also requested authority for a \$2,800/EDU capacity charge of which \$800 would be booked as revenue.

On July 12, 2005, Utilities filed their Proofs of Publication. On July 22, 2005, Utilities provided additional information in response to questions from the Commission's Gas, Water and Sewer Division. In response to requests for a public hearing, on July 18, 2005, the Commission set a Prehearing Conference for September 19, 2005. On September 1, 2005, the Parties filed their Stipulation of Procedural Schedule which was adopted by the Commission by a docket entry on September 8, 2005, vacating the September 19, 2005 hearing.

367 residential customers. Chimneywood Sewage Works, Inc., is a small sewage disposal utility providing service to 28 residential customers in the Chimneywood Subdivision.

2. **Test Year.** The test period selected for determining Utilities' revenues and expenses reasonably incurred in providing sewer disposal service includes the twelve (12) months ending December 31, 2004. The Commission finds that this test period sufficiently representative of Utilities' normal operations to provide reliable data for ratemaking purposes.

3. **Relief Requested and Prefiled Testimony.** The rates collected by Wymberley have remained unchanged since 1981 for the Countryview customers within the Wymberley system and 1986 for the remaining Wymberley customers. The rates for the Chimneywood system were last changed December 26, 2002. While believing that the evidence would support a greater increase, Utilities requested a two-step increase, calling for a monthly rate of \$60 in the first year and \$80 in the second and subsequent years as a single tariff for Wymberley and Chimneywood. The Utilities also requested authority for a \$2,800/EDU capacity charge, booking \$800 of the charge as revenue.

The OUCC's evidence showed that Utilities' financial information would support a monthly rate of \$115. The OUCC questioned the Utilities service contract with Aqua Utility Service, the booking of \$800 of the \$2,800/EDU capacity charge as revenue and the characterization of the proposed rates as a single tariff.

In rebuttal, Utilities agreed to place any future service contract similar to the Aqua Utility Service contract out for competitive bid, to book all of the \$2,800/EDU capacity charge as Contribution in Aid of Construction and would study the feasibility of a single tariff for all of Aqua Indiana's utility operations.



**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY**

**REGULATORY COMMISSION that:**

1. Utilities shall be and hereby are authorized to increase their rates for sewer disposal utility service to \$60/month in the first year and \$80/month in the second and subsequent years.
2. Utilities shall be and hereby are authorized to charge a capacity charge of \$2,800/EDU, which shall be booked as a contribution in aid of construction.
3. Utilities shall file with the Commission's Gas/Water/Sewer Division a new schedule of rates and charges before placing in effect the rate increase authorized herein, which schedules, when approved by that Division, shall be effective and replace Utilities' previously approved schedules.
4. The Joint Stipulation and Settlement Agreement executed by the Parties and filed on January 13, 2006, shall be and hereby is approved without further modification.
5. This order shall be effective on and after the date of its approval.

**HARDY, HADLEY, LANDIS, SERVER AND ZIEGNER, CONCUR**  
**APPROVED:**

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

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