

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE CITY OF) CAUSE NO. 43652
PRINCETON, INDIANA, FOR)
AUTHORITY TO ISSUE BONDS AND) FINAL ORDER
FOR APPROVAL OF A NEW SCHEDULE)
OF RATES AND CHARGES) APPROVED: MAR 03 2010

BY THE COMMISSION:

Jeffrey L. Golc, Commissioner

Lorraine Hitz-Bradley, Administrative Law Judge

On March 6, 2009, the City of Princeton, Indiana ("Petitioner") initiated this Cause seeking approval from the Indiana Utility Regulatory Commission ("Commission") of a new schedule of rates and charges for its municipal water utility. Petitioner sought authority to cover increased operating expenses and costs associated with financing proposed additions and improvements to Petitioner's municipal water utility system. Petitioner also sought to finance those additions and improvements through the issuance of revenue bonds in one or more series.

Pursuant to notice and as provided for in 170 I.A.C. § 1-1.1-15, a Pre-hearing Conference in this Cause was held in the Indiana Utility Regulatory Commission Conference Center, Judicial Courtroom 222 at the National City Center, 101 West Washington Street, Indianapolis, Indiana, at 9:30 AM on April 13, 2009. Proofs of publication of the notice of the Prehearing Conference were incorporated into the record and placed in the official files of the Commission. The Petitioner and the Indiana Office of Utility Consumer Counselor ("OUCC") appeared and participated. No members of the general public appeared. The Commission issued its prehearing conference order adopting the agreed procedural schedule and test year (calendar 2008) for this Cause on April 22, 2009.

Pursuant to the Prehearing Conference Order, Petitioner prefiled its case-in-chief on May 15, 2009. Petitioner's case-in-chief consisted of: 1) The Testimony of Eric M. Smith of Hannum Wagle and Cline Engineering; 2) Preliminary Engineering Report for City of Princeton, Indiana ("PER"), prepared by Hannum Wagle and Cline Engineering; 3) Executive Summary of Project, prepared by Hannum Wagle and Cline Engineering; 4) Testimony of John M. Seever, C.P.A. of H. J. Umbaugh & Associates; and 5) Princeton's 2009 Accounting Report prepared by H.J. Umbaugh and Associates, with accompanying workpapers.

On August 14, 2009, the OUCC filed its case-in-chief including testimony and exhibits from Harold Riceman, Harold Rees and Edward Kaufman.

Pursuant to the Prehearing Conference Order, Petitioner's rebuttal testimony was due on September 4, 2009. On September 3, 2009 Petitioner filed an Agreed Motion for a 60-day stay of the proceedings pending the award of an Indiana Office of Community and Rural Affairs ("OCRA") grant and to work with OUCC to alleviate concerns raised in its testimony. The Commission issued a September 10, 2009 docket entry granting the motion and setting new dates

for Petitioner's rebuttal filing (November 20, 2009) and for the hearing (December 9, 2009). Petitioner filed its rebuttal pre-filed testimony on November 20, 2009, consisting of: 1) Rebuttal Testimony of Eric Smith; 2) Rebuttal Testimony of John Seever and supporting exhibits/workpapers; and 3) Testimony of Jayne Deckard.

On December 4, 2009, Petitioner filed its second Agreed Motion to stay the proceedings, noting that Petitioner had received its OCRA grant, which "centrally changed the nature of the relief requested by Petitioner" and that it was continuing to engage with settlement discussions with OUCC. The Commission issued a docket entry on December 8, 2009 granting the motion and continuing the hearing until January 28, 2010 at 9:30 a.m.

On January 20, 2010, Petitioner and the OUCC (collectively, referred to herein as "the Parties") filed a Notice of Settlement, a Joint Stipulation and Settlement Agreement ("Settlement Agreement"), and supporting testimony, consisting of the Testimony of John Seever.

Pursuant to legal notice duly published in accordance with Indiana law, the Commission convened a public evidentiary hearing on January 28, 2010 at 9:30 AM in the Indiana Utility Regulatory Commission Conference Center, Judicial Courtroom 222 at the National City Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the OUCC appeared by counsel and presented evidence at the hearing. No members of the general public attended the hearing or otherwise sought to testify. At the hearing the Parties' respective testimony and exhibits were received into evidence without objection.

The Parties tendered a Joint Proposed Order for the Commission's consideration on February 22, 2010. Based upon applicable law and the evidence of record in this Cause, the Commission now finds as follows.

1. Notice and Jurisdiction. Petitioner is a "municipally owned utility" within the meaning of the Public Service Commission Act, as amended, and is subject to the jurisdiction of this Commission in the manner and to the extent provided under Indiana law. Notice of the prehearing conference and the evidentiary hearing was published in accordance with applicable law. The Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. Petitioner's Characteristics. Princeton is a municipal water utility providing water service to approximately 4,300 customers in and around the City of Princeton in Gibson County, Indiana. The utility obtains its water from a single well field located a few miles northwest of the city. This well field contains seven wells of varying production capabilities. Raw water is pumped from the well field through two parallel mains, a 16-inch and a 20-inch, to a treatment plant located on the north edge of Princeton. The treatment facility is controlled by three water storage tanks which supply water to the distribution system. The storage tanks consist of a 600,000 gallon ground storage tank (placed in service in 1967) in the northeast section, a 400,000 gallon elevated unit on Ohio Street (1920's), and a newer 1,000,000 gallon elevated tank near the intersection of U.S. 41 and S.R. 64 (built in the mid 1990's). The utility's distribution system for its finished water consists of 55 miles of cast iron ("CI") and PVC pipe in sizes of between one and twelve inches.

3. **Test Year.** The test year used to prepare the financial information related to this Cause was calendar year 2008 (January – December). The financial data for the test year, when adjusted for changes as provided in the Prehearing Conference Order, fairly represents Petitioner’s annual operations. We conclude that such test year is a proper basis for fixing new rates for Petitioner.

4. **Relief Requested in Petitioner’s Case-in-Chief.** Petitioner requested authority to issue waterworks revenue bonds to finance capital improvement projects and for approval to increase its rates and charges. Petitioner’s existing rates and charges were established by final order of this Commission on September 9, 1999 in Cause No. 41159.

5. **Capital Improvement Options Proposed in Petitioner’s Case-in-Chief.**

Petitioner’s proposed Capital Improvement projects are as follows:

- A. A new Water Treatment Plant with a 3.25 million gallon per day (“MGD”) average and 4.32 MGD maximum daily flow;
- B. A new 500,000 gallon ground storage tank near the southwest industrial corridor;
- C. High service pumps;
- D. An expanded clear well;
- E. Replacement of two existing aerators;
- F. A third new aerator;
- G. New treatment pumps and controls;
- H. New chlorination and fluoridation injection systems;
- I. Certain building and electrical modifications;
- J. Demolition of the Ohio Street elevated tank; and
- K. 5,000 feet of 16” mains in the industrial area.

These capital improvement projects are more fully described in the testimony (Petitioner’s Exhibit EMS), Preliminary Engineering Report (Exhibit EMS-1), Executive Summary (Exhibit EMS-2) and workpapers sponsored by Petitioner’s witness Eric Smith, of Hannum Wagle and Cline Engineering. OUCC witness Roger Pettijohn filed testimony discussing and recommending Commission approval of Petitioner’s proposed \$4,150,000 Capital Improvement Plan.

Petitioner sought authority to finance the Capital Improvement Plan by issuing new debt. OUCC witness Kaufman filed testimony opposing Petitioner’s plan to “wrap” the proposed new debt by deferring principal payments until 2021. He stated that Petitioner’s financing proposal (issuing debt through a competitive open market sale) used assumed interest rates between 6.21% to 7.01 % that were “excessive.” He testified that Petitioner had access to lower cost funds via Indiana State Revolving Fund (“SRF”) which he calculated could save ratepayers nearly three million dollars over the life of a 20-year loan. Kaufman Direct at 3-6. During the course of this Cause, Petitioner was able to secure a grant from OCRA from Disaster Relief monies in the amount of \$2,430,400. This grant was awarded after OUCC filed its testimony but before Petitioner filed its rebuttal. The OCRA Grant significantly reduced Petitioner’s pro forma revenue requirements and request for rate relief. Seever Rebuttal, Exhibit JMS-1R at 3-4; JMS-2R, Schedule 3. Mr. Seever testified that the OCRA grant required any related debt to come from SRF,

reducing the amount of Petitioner's proposed financing to \$1,775,000. Petitioner also stated it would use \$1,000 of cash on hand as additional funding.

6. Terms of Proposed Settlement Agreement. On January 20, 2010, Petitioner and the OUCC filed a proposed Settlement Agreement for approval by this Commission. The proposed Settlement Agreement was supported by the prefiled testimony of Petitioner's witness Seever, including accounting schedules reflecting the agreed changes to Petitioner's originally proposed revenue requirements. The following is a summary of the proposed Settlement Agreement and supporting testimony:

A. *Capital Improvement Projects.* The Parties agreed that the Commission should accept and approve Petitioners' capital improvement projects identified above.

B. *Modifications to Engineering Matters.* Petitioner agreed to adopt the following OUCC engineering recommendations:

- 1) Maintain records of when older items are physically removed from service (Testimony of Hal Rees ("Rees"), p. 8);
- 2) Reduce annual well cleaning and pump maintenance from \$37,800 to OUCC's recommended \$31,920 (Rees, p. 10);
- 3) Reduce annual purchased power for the treatment plant from \$65,000 to OUCC's recommended \$51,500 (Rees, p. 10-11);
- 4) Reduce annual chemical costs from \$7,000 to OUCC's recommended \$1,500 (Rees, p. 11);
- 5) Investigate InWARN to determine whether or not membership would be valuable for the utility (Rees, p. 13); and
- 6) Assemble a Water Conservation Committee and develop a Water Conservation Action plan by the end of 2010, with copies provided to OUCC and the Commission (Rees, p. 15).

C. *Funding/Financing.* The Parties agreed that the estimated funding for Petitioner's project will be financed by the OCRA grant, a SRF loan and cash on hand as described above. The proposed bonds are assumed to be dated February 1, 2010 and amortized over 20 years at an assumed interest rate of 2.31% (subject to true-up). Even if the assumed February 2010 bond date changes, Petitioner has represented to OUCC that it intends to make its first principal payment on July 1, 2011. The Parties also agreed to future true-up reporting and tariff filing requirements.

D. *Other Accounting and Finance Issues.* The Parties also agreed to the following regarding accounting and finance issues:

- 1) Petitioner accepted OUCC's proposed \$16,962 increase to test year operating revenues based on replacing certain inaccurate meters (Testimony of Edward Kaufman, p. 12);
- 2) Petitioner agreed to remove \$47,144 (for operating fund deficits as of December 31, 2008) from its working capital requirement as

presented in its revised accounting schedules, on the basis that recovery of those funds would constitute retroactive ratemaking.

- 3) The Parties agreed to reduce the \$7,123 Petitioner included for test year interest income (Petitioner's Rebuttal Exhibit JMS-2R w/ Bids II) to zero. The parties agreed that given Petitioner's \$47,000 shortfall discussed immediately above, Petitioner did not receive interest on funds that were not invested.
- 4) Regarding seasonal employees (OUCC Expense Adjustment 1, Schedule 6), the parties agreed to reduce Petitioner's proposed seasonal employee expense by \$2,787, which also impacts the pro forma FICA, in the amount of \$213, reflecting a combined \$3,000 downward adjustment to Petitioner's proposed Salaries and Wages and FICA amounts.
- 5) The Parties agreed that the interest earnings on Petitioner's debt service reserve amounts should be calculated at 1%.
- 6) With Petitioner's acquisition of an OCRA grant, Petitioner accepted the OUCC's recommendation to not "wrap" its new loan around existing debt and to use SRF to fund its remaining \$1,775,000 bond issuance.

E. Revenue Requirement and Rate Increase. The Parties agreed that Petitioner's additional required revenues, in the amount of \$721,342, warranted a 48.43% across-the-board, phased-in rate increase. The Parties agreed that Petitioner's Phase I increase would be 37.13%, which will include, among other things, increased operating expenses and debt service related to the financing authority. Petitioner's Phase II increase of 8.24% would include, among other things, increased depreciation expenses and payments in lieu of taxes related to the new plant constructed with financed funds. The Parties attached to their settlement testimony accounting schedules that reflected the agreed upon revenue requirement, as well as agreed upon rates and charges for Petitioner (Exhibits JMS-S1 and JMS-S2 attached to Petitioners' Settlement Testimony of John Seever, filed in this Cause).

F. True-Up Requirements. After Petitioner closes on the SRF Loan and receives the OCRA grant, it will "true-up" any differences between projected and actual project costs or projected and actual debt service and debt service reserve requirements, as well as other revenue requirements, such as payment in lieu of taxes and depreciation.

7. Findings on Capital Improvement Projects and Proposed Bonds. Ind. Code § 8-1.5-2-19 requires Commission approval before a municipality may issue bonds, notes or other obligations. Petitioner requests Commission approval to issue \$1,775,000 in revenue bonds with a term not to exceed twenty (20) years through the Indiana SRF. The Petitioner offered evidence that the bond proceeds will be used to pay for the Capital Improvement Plan described above. Based on the evidence of record, we find that Petitioner's capital improvement projects are reasonable and necessary to enable Petitioner to continue to render adequate and efficient water

utility service to its customers. We also find that the proposed bond issue is a reasonable method of financing. We therefore authorize and approve Petitioner's request to issue waterworks revenue bonds in an aggregate amount of \$1,775,000, subject to true-up.

8. Findings on Agreed Annual Revenue Requirements. I.C. § 8-1.5-3-8 establishes the revenue requirement elements which this Commission must apply in determining just and reasonable rates for municipally-owned utilities such as Petitioner's water utility. The parties have agreed on Petitioner's revenue requirements, which are reflected in Exhibits JMS-S1 and JMS-S2. Based on the evidence presented, we now make our findings on each revenue requirement element.

A. Operation and Maintenance Expenses. Petitioner and OUCC have agreed that annual revenue requirement as shown on Exhibit JMS-S1 for operation and maintenance expenses is \$1,302,735 for Phase I and \$1,398,125 for Phase II. We find that such operation and maintenance expenses are reasonable and supported by the evidence.

B. Debt Service. Petitioner and the OUCC have agreed to an annual debt service requirement of \$381,944 for Phase I, composed of outstanding bonds and \$112,044 in proposed 2010 bonds. The amount for Phase II is \$381,944, composed of outstanding bonds and \$112,044 in proposed 2010 bonds. See, Exhibit JMS-S1. The Petitioner and the OUCC have agreed and we find that these amounts represent Petitioner's annual revenue requirement for debt service. We find these amounts to be reasonable and supported by the evidence.

C. Working Capital Requirement. Petitioner and the OUCC have agreed to a working capital requirement of \$45,967 for Phase I and \$46,348 for Phase II, as reflected in Exhibit JMS-S1. The Petitioner and the OUCC have agreed and we find that these amounts represent Petitioner's annual revenue requirement for debt service reserve. We find these amounts to be reasonable and supported by the evidence.

D. Debt Service Reserve. Petitioner and the OUCC have agreed to an annual debt service reserve of \$18,141 for Phase I and \$18,141 for Phase II, as reflected in Exhibit JMS-S1. The Petitioner and the OUCC have agreed and we find that these amounts represent Petitioner's annual revenue requirement for debt service reserve. We find these amounts to be reasonable and supported by the evidence.

E. Extensions and Replacements (Depreciation). Petitioner and the OUCC have agreed that Petitioner's revenue requirement for extensions and replacements is in the amount of \$207,089 for Phase I and \$284,903 for Phase II, as reflected in Exhibit JMS-S1. We find these amounts to be reasonable and supported by the evidence.

F. Interest Income. Petitioner and the OUCC have agreed that Petitioner's interest income which would ordinarily offset the amount of Petitioner's other revenues is \$0 for both Phases I and II, as reflected in Exhibit JMS-S1. We find this amount to be reasonable and supported by the evidence.

G. Penalties. Petitioner and the OUCC have agreed that Petitioner's penalties which would ordinarily offset the amount of Petitioner's other revenues is \$0 for both Phases I and

II, as reflected in Exhibit JMS-S1. We find this amount to be reasonable and supported by the evidence.

H. Other Operating Revenue. Petitioner and the OUCC have agreed that Petitioner's revenue requirement should be offset by the amount of Petitioner's other operating revenue in the amount of \$33,144 for Phase I and \$33,144 for Phase II as reflected in Exhibit JMS-S1. Such amount should be used as an offset to Petitioner's revenue requirements. We find this amount to be reasonable and supported by the evidence.

I. Net Annual Revenue Requirements. Based upon our findings above, we find that Petitioner's annual net revenue requirements are \$2,034,776 in Phase I and \$2,208,361 in Phase II, as set forth below:

	Phase I	Phase II
Operation and Maintenance Expenses	\$1,302,735	\$1,398,125
Debt Service		
Outstanding Bonds	\$381,944	\$381,944
Proposed 2010 Bonds	\$112,044	\$112,044
Working Capital Requirement	\$45,967	\$46,348
Debt Service Reserve	\$18,141	\$18,141
Extensions & Replacements (Depreciation)	\$207,089	\$284,903
Total Revenue Requirement	\$2,067,920	\$2,241,505
Less:		
Interest Income	(\$0)	(\$0)
Penalties	(\$0)	(\$0)
Other Operating Revenue	(\$33,144)	(\$33,144)
Net Revenue Requirements	\$2,034,776	\$2,208,361
Total Annual Revenues:	(\$1,489,375)	(\$2,042,380)
Total Annual Revenues Required :	\$553,037	\$168,305
utility receipts tax)		(including
Percentage Increase		
37.13%	8.24%	

Based on the evidence introduced into the record, we find that Petitioners' current rates and charges are inadequate to provide Petitioner's annual revenue requirement. We find that to meet its current revenue requirements, Petitioner requires an overall 48.43% increase in rates to produce a \$553,037 (37.13%) increase in operating revenues in Phase I and a \$168,305 (8.24%) increase in operating revenues in Phase II. We find these new annual revenue requirements are nondiscriminatory, reasonable, and just.

9. Phased Rates. In the Joint Stipulation and Settlement Agreement, the OUCC and the Petitioner agreed that the implementation of Petitioner's rate increase in two separate phases was reasonable. I.C. § 8-1.5-3-8(h) provides that the Commission shall grant a request by a municipal utility that an increase in rates and charges not be effective until after the occurrence of

a future event, if the municipal legislative body so requests. Petitioner has presented testimony and exhibits in this Cause to support phased rates and the Petitioner and the OUCC have agreed to phased rates.

The Commission has previously recognized the prospective effect of a capital improvement project on a municipal utility's annual revenue requirement and has authorized phased rates, such as those agreed to by the OUCC and Petitioner, to eliminate the need for, and associated expenses with, another rate case upon completion of the capital improvement project.¹

In the Joint Stipulation and Settlement Agreement, the OUCC and the Petitioner agreed that Petitioner should be authorized to implement its Phase I rates upon the issuance of this order and its Phase II rates, subject to true-up, thirty (30) days after it certifies to the Commission by affidavit of a registered professional engineer that the project is complete and used and useful in providing service to the public, provided neither the Commission nor the OUCC notify Petitioner that they object to the implementation of Phase II rates within such thirty (30) day period.

10. True-Up Requirements. The actual amount of the bonds, the interest rate at which the bonds will be sold, and the cost of annual debt service will not be known precisely until Petitioner sells the bonds required to fund the project. Since the figures used in the above debt service and debt service reserve calculations are estimates, rather than actual amounts, Petitioner agrees to true-up those amounts after closing on its SRF loan.

We find that Petitioner shall, within thirty (30) days of closing on the 2010 SRF loan, file a true-up report with the Commission and serve a copy on the OUCC. The true-up report is to include the actual principal amount borrowed, the actual interest rate, the term of the bonds, the actual average annual debt service and debt service reserve funding requirements, and the impact that any difference between the actual and projected revenue requirements for debt service and debt service reserve would have on Petitioner's end user rates. Petitioner's true-up filing should also include an amended tariff giving prospective effect to the actual average annual debt service and debt service reserve requirements, based on the information in the true-up report. If the OUCC objects to the calculations in the true-up report and amended tariff, it has thirty (30) days after filing with the Commission in which to file any objections and request an expedited evidentiary hearing on those objections. If the OUCC does not file an objection within thirty (30) days of Petitioner's true-up filing, Petitioner's true-up report and amended tariff will be deemed approved, without requiring any further order from this Commission, and Petitioner's amended tariff will take effect at the start of Petitioner's next billing cycle.

11. Approval of Stipulation and Settlement Agreement. Settlements presented to the Commission are not ordinary contracts between private parties. *U.S. 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

¹ See, *In the Matter of the Petition of the City of Columbia City*, Cause No. 40466 at 8 (Ind. Util. Regulatory Comm'n Sept. 11, 1996).

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. *U.S. Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Pub. Serv. Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission’s own procedural rules require that settlements be supported by probative evidence. 170 I.A.C. § 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 I.C. § 8-1-2, and that such agreement serves the public interest.

Based on the evidence of record, we find that the Settlement Agreement is reasonable, just, serves the public interest and should be approved without change. Accordingly, we find that the Parties’ Stipulation and Settlement Agreement is approved with a copy of the Stipulation and Settlement Agreement, marked as “Attachment 1,” attached to this Order and incorporated herein by reference. 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*, Mar. 19, 1997).

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

1. The Stipulation and Settlement Agreement shall be and hereby is approved, and the terms and conditions thereof are incorporated herein as part of this Order. The Parties shall comply with the provisions of the Stipulation & Settlement Agreement.

2. Petitioner is hereby authorized to issue waterworks revenue bonds in an aggregate amount of \$1,775,000 as described above, subject to the true-up requirements in Paragraph 10.

3. Petitioner is hereby authorized to increase its annual revenues in the amount of \$721,342, or 48.43% across-the-board, to be implemented in two phases (37.13% and 8.24% respectively), as requested by Petitioner and agreed to by the OUCC, subject to the true-up requirements in Paragraph 10.

4. Petitioner is hereby authorized to commence and complete its capital improvement projects, as discussed and approved in this Order.

5. Petitioner shall file a tariff schedule with the Water/Sewer Division of the Commission in accordance with the Commission’s Rules. Said tariff, when approved by the Water/Sewer Division, shall cancel all previously approved rates and charges and Petitioner’s new charges shall be in full force and effect.

6. In accordance with I.C. § 8-1-2-85, Petitioner shall pay into the Treasury of the State of Indiana through the Secretary of this Commission a fee of twenty-five cents (\$0.25) for

each \$100 of waterworks revenue bonds issued under this Order, up to a total fee of \$4,437.50 for the authorized bond issuance. Such payment shall be made within thirty (30) days of Petitioner's receipt of the financing proceeds authorized herein.

7. In accordance with I.C. § 8-1-2-70, Petitioner shall pay the following itemized charges to the Secretary of the Commission within twenty (20) days from the date of this Order, together with any additional costs which were or may be incurred by the Commission or the OUCC in connection with this Cause. Full payment of these charges is required before Petitioner is permitted to place into effect the increased rates and charges approved herein:

Commission Charges	\$1,000.00
Reporting Charges	\$ 17.39
Legal Advertising Charges	\$ 68.25
OUCC Charges	<u>\$2,000.00</u>

TOTAL:	\$3,085.64
--------	------------

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

ATTERHOLT, GOLC, LANDIS AND ZIEGNER CONCUR; HARDY ABSENT:

APPROVED: MAR 03 2010

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


Brenda Howe
Secretary to the Commission

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE CITY OF PRINCETON,)
INDIANA, FOR AUTHORITY TO ISSUE)
BONDS AND FOR APPROVAL OF A NEW) Cause No. 43652
SCHEDULE OF RATES AND CHARGES)

STIPULATION AND SETTLEMENT AGREEMENT

This Stipulation and Settlement Agreement (the “Settlement Agreement”) is entered into by and between the Petitioner, City of Princeton, Indiana (“Princeton” or “Petitioner”) and the Indiana Office of Utility Consumer Counselor (the “OUCC”) (collectively, the “Settling Parties”). The Petitioner and the OUCC have been duly advised in the premises by their respective staff, experts, and counsel; and they each now hereby stipulate and agree, solely for the purpose of compromise and settlement, that the terms and conditions incorporated in this Settlement Agreement and in a Joint Proposed Order to be filed in this Docket for adoption by the Commission as its Final Order in this Docket, constitute a fair, reasonable and just resolution of all issues in this proceeding, subject to their approval by the Indiana Utility Regulatory Commission (the “Commission” or “IURC”), without modification or further condition that is unacceptable to any Party.

1. **Requested Relief and Pre-Filed Evidence.** On May 15, 2009, Petitioner initiated this Cause by filing a Verified Petition with the Commission requesting authority to adjust its rates and charges for water services and for authority to issue long term bonds. Petitioner filed its pre-filed case in chief on May 15, 2009; the OUCC filed

its pre-filed case in chief on August 14, 2009. Petitioner filed its rebuttal testimony on November 20, 2009.

2. Settlement. After review, analysis, discussion, and negotiation, as aided by their respective technical staff and experts, Petitioner and the OUCC have now agreed on terms and conditions set forth herein that resolve all issues between them in this Cause.

3. Stipulation. The Settling Parties jointly stipulate that all testimony and exhibits pre-filed in this cause be admitted into evidence without further hearing, procedure, or cross-examination; and each of the Settling Parties hereby waives its right to cross-examination or to present further evidence of any kind or nature other than evidence filed or submitted in support of this Settlement Agreement.

4. Agreements as to Petitioner's Requested Relief. The Settling Parties stipulate and agree that the Commission should accept and approve the following agreements reached between the parties on the various items below:

- A. Capital Improvements. In its prefiled testimony and exhibits, Petitioner identified certain capital improvements that need to be made to ensure that Princeton continues to provide safe and efficient water service. The parties stipulate and agree that the Commission should accept and approve the 3.25 MGD average and 4.32 MGD maximum daily flow Water Treatment Plant proposed by the Petitioner, for a total project cost of \$4,150,000 (subject to true-up). Other improvements will include: 1) a new 500,000 gallon ground storage tank, new high service pumps,

expanded clear well, replacements of two existing aerators, a new third aerator, new treatment pumps and controls, new chlorination and fluoridation injection systems, and some building and electrical modifications. In addition, other improvements will include demolition of the Ohio Street elevated tank, construction of a new 500,000 gallon tank near the southwest industrial corridor, and 5,000 feet of 16" mains in the industrial area. These improvements are more fully set forth in Petitioners' pre-filed case in chief.

B. Other Engineering Issues. Petitioner also agrees to adopt the following OUCC engineering recommendations:

1) maintain records of when older items are physically removed from service (per Rees Testimony, p. 8);

2) reduce annual well cleaning and pump maintenance from \$37,800 to OUCC's recommended \$31,920 (per Rees Testimony, p. 10);

3) reduce annual purchased power for the treatment plant from \$65,000 to OUCC's recommended \$51,500 (per Rees Testimony, p. 10-11);

4) reduce annual chemical costs from \$7,000 to OUCC's recommended \$1,500 (per Rees Testimony, p. 11);

5) investigate InWARN to determine whether or not membership would be valuable for the utility (per Rees Testimony, p. 13); and

6) assemble a Water Conservation Committee and develop a Water Conservation Action plan by the end of 2010, with copies provided to OUCC and the IURC (per Rees Testimony, p. 15).

C. Funding. The estimated funding for Petitioner's project will be financed by: \$2,430,400 of monies from the Indiana Office of Community and Rural Affairs ("OCRA"), \$1,775,000 of proposed bonds issued through the State Revolving Fund (subject to true-up), and \$1,000 of cash on hand. The proposed bonds are assumed to be dated February 1, 2010 and amortized over 20 years at an assumed interest rate of 2.31% (subject to true-up). Even if the assumed February 2010 bond date changes, Petitioner has represented to OUCC that it intends to make its first principal payment on July 1, 2011. The Settling Parties also agree to future true-up reporting and tariff filing requirements as described in Section 5 A below.

D. Other Accounting and Finance Issues. The Parties also agree to the following regarding accounting and finance issues:

1) Petitioner accepts OUCC's proposed \$16,962 increase to test year operating revenues based on replacing certain inaccurate meters (per Kaufman Testimony, p. 12);

2) Petitioner agrees to remove \$47,144 (for operating fund deficits as of 12/31/08) from its working capital requirement as presented in its revised accounting schedules. Recovery of these funds would constitute retroactive ratemaking.

3) The Parties have agreed to reduce the \$7,123 Petitioner included for test year interest income (Petitioner's Rebuttal Exhibit JMS-2R w/ Bids II) to zero. The parties agree that given Petitioner's \$47,000 shortfall discussed immediately above, Petitioner did not receive interest on funds that were not invested.

4) Regarding seasonal employees (OUCC Expense Adjustment 1, Schedule 6), the parties have agreed to reduce Petitioner's proposed seasonal employee expense by \$2,787, which also impacts the proforma FICA, in the amount of \$213, reflecting a combined \$3,000 downward adjustment to Petitioner's proposed Salaries and Wages and FICA amounts.

5) Petitioner's revised accounting schedules reflected interest earnings of .01% on its debt service reserve amounts. OUCC Witness Kaufman's direct testimony (page 9) recommended applying 2% interest earnings. After discussion and negotiations, the parties agreed that a 1% interest earning percentage on Petitioner's Debt Service Reserve amounts would be reasonable.

6) With Petitioner's acquisition of an OCRA grant, Petitioner will accept OUCC witness Kaufman's recommendation to not "wrap" its new loan around existing debt and to use SRF to fund its remaining \$1,775,000 bond issuance.

E. Revenue Requirement and Rate Increase. The Settling Parties also agree that Petitioner's additional required revenues, in the amount of \$721,342, warrant a 48.43% across-the-board, phased-in rate increase. Petitioner's Phase I increase will be 37.13%, which will include, among other things, increased operating expenses and debt service related to the financing authority. Petitioner's Phase II increase of 8.24% will include, among other things, increased depreciation expenses and payments in lieu of taxes related to the new plant constructed with financed funds. The proposed increases yield an overall proposed increase of 48.43%. Attached to this Agreement are accounting schedules that reflect the agreed upon revenue requirement, as well as the rates and charges for Petitioner.

5. **Reporting Requirements.** In consideration of the OUCC's agreement to the items above, Petitioner agrees to meet the following additional reporting requirements under this agreement:

A. True-Up Requirements. Petitioner agrees to a "true-up" process, to be implemented after Petitioner closes on the State Revolving Fund (SRF)

Loan and receives the OCRA grant to address any differences between projected and actual project costs or projected and actual debt service and debt service reserve requirements, as well as other revenue requirements such payment in lieu of taxes and depreciation. Under the proposed settlement, Petitioner's initial true-up report should be filed with the IURC, and a copy served on the OUCC, within 30 days of the loan closing date. The true-up report must state the actual interest rate and principal amount borrowed, along with an updated amortization schedule. The parties agree that its revenue requirement and rates also should be trued-up at that time.

6. **Final Hearing.** At the final evidentiary hearing, the Settling Parties will confirm their request that the Commission approve this Settlement Agreement, and all pre-filed evidence will be admitted into the evidentiary record without cross-examination.

7. **Evidence.** The Settling Parties agree that the pre-filed testimony and exhibits, along with any testimony in support of this Settlement Agreement presented at the noticed public hearing, provide and constitute substantial and sufficient probative evidence (170 IAC 1-1.1-17(d)) upon which the Commission can and should determine that the Settlement Agreement is reasonable, just and consistent with the purpose of Indiana Code 8-1.5-3-1, *et seq.*, and, where applicable, Ind. Code 8-1-2-1, *et seq.*; that the Settlement Agreement serves the public interest; and that upon approval of this Settlement Agreement by the Commission's adoption of the Settling Parties' Joint Proposed Order, without any material change not accepted in writing by each of the Settling Parties, this proceeding will be finally decided and resolved, without any

remaining right of appeal, modification or rehearing, unless otherwise agreed by the Settling Parties, subject to agreed true-up requirements.

8. **Non-Precedential Effect.** This Settlement Agreement shall not constitute nor be cited as precedent, except as necessary to enforce its terms before the Commission or in any state court of competent jurisdiction. The Settlement Agreement is solely the result of compromise in the settlement process and, except as provided herein, a Joint Proposed Order to be filed by the Settling Parties for possible adoption by the Commission, shall be without prejudice to and shall not constitute a waiver of any legal position that either of the Settling Parties may take in any other regulatory proceeding(s).

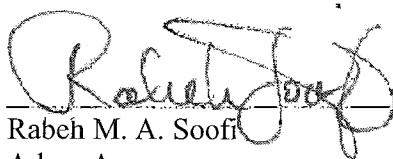
9. **Authority to Execute.** Each of the undersigned represent that he or she is fully authorized to execute this Settlement Agreement on behalf of their designated clients, who agree to be bound by this Settlement Agreement.

10. **Contingent Settlement.** This Settlement Agreement is contingent upon the Commission's issuance of a Final Order approving the terms of this Settlement Agreement and adopting the Joint Proposed Order to be filed by the Settling Parties for possible adoption by the Commission, without any material change not agreed upon in writing by each of the Settling Parties. In the event the Commission does not approve this Settlement Agreement, or approves a modified version that is not acceptable to either Settling Party, this Settlement Agreement shall be deemed null and void and withdrawn, unless otherwise agreed by the Petitioner and the OUCC.

ACCEPTED AND AGREED this 20th day of January, 2010.

CITY OF PRINCETON, INDIANA

By: _____



Rabeh M. A. Soofi
Adam Arceneaux
ICE MILLER LLP
One American Square
Suite 2900
Indianapolis, IN 46282
Telephone: (317) 236-2100

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

By: _____



Jeff Reed, Attorney No. 11651-49
Deputy Consumer Counselor
INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR
115 W. Washington St., Suite 1500 South
Indianapolis, IN 46204
Telephone: 317-233-3235
Facsimile: 317-232-5923
E-Mail: jreed@oucc.in.gov