ORIGINAL

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

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

APPLICATION OF EASTERN RICHLAND SEWER CORPORATION FOR A NEW SCHEDULE OF RATES AND CHARGES FOR WASTEWATER SERVICE	)))))	**CAUSE NO. 45776 U** **APPROVED: JUL 05 2023**

ORDER OF THE COMMISSION

Presiding Officers:
David E. Veleta, Commissioner
Greg S. Loyd, Administrative Law Judge

On September 28, 2022, Eastern Richland Sewer Corporation ("ERSC") filed a Small Utility Rate Application ("Application") with the Indiana Utility Regulatory Commission ("Commission") under Ind. Code § 8-1-2-61.5 and 170 IAC 14-1.

On October 18, 2022, the Commission's Water and Wastewater Division ("Division") issued a Memorandum indicating that the Application was incomplete. ERSC responded to this Memorandum on November 18, 2022, by filing proof that its notice of proposed sewer rate increase was published as required by 170 IAC 14-1-2(b). On November 18, 2022, the Water and Wastewater Division issued a Memorandum stating that the Application was complete.

On February 16, 2023, as required by 170 IAC 14-1-4(a), the Indiana Office of Utility Consumer Counselor ("OUCC") filed its report making certain recommendations. On March 9, 2023, ERSC filed a letter signed by Otto W. Krohn of O.W. Krohn & Associations, LLP (a consulting and certified public accountant firm) that ERSC was engaged in ongoing settlement negotiations with the OUCC (collectively, "Settling Parties"). On April 6, 2023, ERSC filed a second letter from Mr. Krohn that set forth the parties' agreement and included ERSC's proposed rate tariff.

Under Ind. Code § 8-1-2-61.5, a formal public hearing is not required in rate cases involving small utilities with fewer than 8,000 customers unless a hearing is requested by at least 10 customers, a public or municipal corporation, or the OUCC. The Commission did not receive a request for a hearing and, accordingly, no hearing was held.

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

1. **<u>Commission Jurisdiction and Notice</u>.** ERSC is a public utility as defined in Ind. Code § 8-1-2-1(a) and qualifies for treatment as a small utility under Ind. Code § 8-1-2-61.5. The Commission has authority to approve ERSC's rates and charges under Ind. Code § 8-1-2-125. ERSC published legal notice of filing this small utility rate case as required by 170 IAC 14-1-2(b). Therefore, we find that notice of this Cause was given and published as required by law. The

Commission also finds the Application satisfies the requirements of Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. Accordingly, the Commission has jurisdiction over ERSC and the subject matter of this proceeding.

2. **ERSC's Characteristics.** ERSC is a public utility organized and existing as a not-for-profit corporation that owns and operates a wastewater collection system in Richland Township in Monroe County, Indiana. ERSC provides wastewater utility service to 2,357 residential and commercial customers. Since the utility does not have a treatment plant, ERSC only collects wastewater from its customers for conveyance to the Town of Ellettsville ("Ellettsville") treatment plant. ERSC does not have employees and is managed by volunteer members of its Board of Directors that oversee all utility operations. Reed & Sons Construction has provided management, operation, and maintenance activities for ERSC since late 2011.

3. **Test Period.** The test period selected for determining ERSC's revenues and expenses reasonably incurred in providing wastewater utility service to its customers includes the 12 months ending December 31, 2021. With adjustments for changes that are fixed, known, and measurable, the Commission finds this test period is sufficiently representative of ERSC's normal operations to provide reliable data for ratemaking purposes.

4. **Background and Relief Requested.** The Commission approved ERSC's current rates and charges on August 27, 2014, in Cause No. 44394. In its Application filed in the current Cause, ERSC requested approval of an across-the-board rate increase of 9.97%, or $106,586. ERSC also requested authorization to implement a new $2,500 system development charge ("SDC") for customers with a 5/8" meter. ERSC subsequently filed Mr. Krohn's April 5, 2023 letter indicating that ERSC and the OUCC reached an agreed resolution of this Cause.

5. **OUCC Report.** The OUCC's report consists of the testimony and attachments of Utility Analyst Carla F. Sullivan and Senior Utility Analyst James T. Parks, both in the OUCC's Water/Wastewater Division.

Mr. Parks provided an overview of ERSC. He noted that the utility provides wastewater utility service to 2,357 customers. ERSC does not have any employees nor a treatment plant. Instead, the company collects wastewater from its customers for conveyance to Ellettsville for treatment. Reed & Sons Construction, Inc. has provided management, operation, and maintenance activities pursuant to a contract since late 2011. The utility is managed by volunteer members of the board of directors that oversee all utility operations.

He said ERSC's customer base has grown steadily for the past 10 years, with average annual growth of 1.3% per year. Mr. Parks noted that the metered customer charge, based on a 5,000 gallon per month metric, for sewer service is $42.46. He said ERSC's unmetered customers (approximately 10-11 in the last 10 years) pay a flat monthly rate of $26.28.

Mr. Parks explained that the ERSC system is susceptible to infiltration and inflow ("I&I"), particularly due to the clay pipes in the collection system. Mr. Parks stated that according ERSC's annual reports to the Commission, ERSC experienced 83 overflows between 2018 and 2021.

Mr. Parks said excessive I&I can impact individual customers, the community at large, and could overload Ellettsville's treatment plant. He noted ERSC is required to submit and implement, per the Commission's Orders in Cause Nos. 43921 and 47391 U, a sewer televising, inspection, repair, lining and replacement program to locate and address the I&I. He stated that pursuant to Cause No. 43921, ERSC is also required to annually report its progress in reducing I&I. He stated that ERSC did not submit three years of such required reports.

Mr. Parks testified that ERSC's reports describe the sewer system work performed each year and the amount spent maintaining its collection system, but the reports do not explain how much I&I has been removed, how much I&I remains in ERSC's system, and whether peak sewer flows were lowered during wet weather conditions by ERSC's efforts. He recommended ERSC continue its annual reporting, using the utility's current report format, but with one addition. He recommended that ERSC regularly estimate I&I volumes in its sewers and the I&I it has located and eliminated through its sewer repairs, relining, and replacements, following U.S. Environmental Protection Agency guidance on estimating I&I.

In response to the Application, Ms. Sullivan recommended approval of an overall increase of 5.48% over ERSC's current rates to provide an additional $60,787 in annual revenue, which is $45,799 less than ERSC originally proposed. She also suggested additional adjustments as set forth below.

A. **<u>Pro Forma Revenue Requirement</u>.** Ms. Sullivan recommended an $86,389 decrease to ERSC's $1,197,130 of test year operating revenue, resulting in pro forma operating revenue of $1,110,741. Her proposed $86,389 decrease consists of ERSC's $11,411 increase to normalize test year residential revenue and the removal of $97,800 in test year connection fees because these fees do not represent an unmet additional cost of ERSC to connect new customers to its system.

B. **<u>Pro Forma Operating Expense</u>.** Ms. Sullivan recommended a $551,176 decrease to ERSC's $1,543,730 test year operating expense (excluding depreciation and CIAC amortization expense), resulting in pro forma operating expense of $992,554. In reaching this conclusion, Ms. Sullivan accepted ERSC's proposed increase to salaries and wages; the increase to billings and collection expenses; and the increase to payroll taxes. She did not agree to a $229 decrease to employee benefits as ERSC did not incur such expenses in the test year. She also recommended the following additional pro forma expense adjustments:

i. **<u>Purchased Wastewater Treatment & Capacity Contributions</u>.** Ms. Sullivan testified that the pro forma purchased treatment expense should be increased by $4,390 to reflect ERSC's adjustment to operating revenues for the addition of 286 billings in test year growth.

She also recommended the removal of ERSC's $660,000 lump sum payment during the test year to Ellettsville for purchased treatment services-capital payments. She recommended this removal because the payment is nonrecurring. She stated that beginning January 1, 2022, ERSC is required to pay $120,000 per year to Ellettsville for capital related costs, resulting in a pro forma purchased treatment service cost of $120,000.

ii. Nonrecurring and Disallowed Costs.

a. Contractual Services-Accounting. Ms. Sullivan accepted ERSC's accounting expense of $3,500 as part of ERSC's rate case adjustment. To avoid double recovery of these expenses, she recommended that the test year contractual services-accounting expense should be reduced by $3,500, resulting in a pro forma contractual services-accounting expense of $24,190.

b. Contractual Services-Legal. Ms. Sullivan recommended the removal of $2,000 in contractual services-legal expenses associated with ERSC's litigation against Ellettsville because these fees are non-recurring. She therefore recommended a $2,000 decrease to test year contractual services-legal expense of $8,937, resulting in pro forma contractual services-legal expense of $6,937.

c. Christmas Party Expense. She stated that during the test year, ERSC paid $2,745 for a Christmas lunch at the French Lick Resort for its Board of Directors. As this cost was not necessary for the provision of wastewater service, she recommended a decrease of $2,745 to test year miscellaneous expense of $11,352, resulting in pro forma miscellaneous expense of $8,607.

d. Utility Receipts Tax. Ms. Sullivan noted that the utility receipt tax was repealed in 2022 and, as such, she recommended a decrease of $16,743 to test year utility receipt tax expense.

iii. Extensions and Replacements ("E&R"). Ms. Sullivan explains that ERSC includes E&R of $2,795,000 over five years. However, these costs are not reflected in Schedule 1 revenues requirements as the utility intended to use cash on hand to pay for these capital improvement costs. However, she concluded that E&R were indirectly included in the revenue requirement as pro forma operating expense. Based on her analysis of ERSC's financial records Ms. Sullivan determined that $220,550 should be reclassified from operating expenses to E&R revenue requirement.

iv. System Development Charge. Ms. Sullivan explained that ERSC included $11,045,000 in capital project expenses, which it reduced by applying $2,500,000 cash on hand, resulting in net incremental capital costs of $8,545,000. She stated ERSC then divided this amount by the incremental capacity that will be added through these capital projects, resulting in an SDC of $5,538 per new customer. She noted ERSC only requested an SDC of $2,500 for customers with a 5/8" meter.

Ms. Sullivan stated she agreed with ERSC's methodology of calculating its SDC, but that she disagreed with the inclusion of certain capital projects because she stated they do not adequately relate to the need for additional capacity to serve growth. Specifically, she recommended the exclusion of (1) $2,500,000 for lining and repairing mains and manholes, (2) $2,500,000 for rehabilitating the primary main to Township Line, and (3) $3,000,000 for rehabilitating secondary mains throughout ERSC's system. She included incremental capital costs of $5,545,000 in her SDC calculation and deducted $1,687,500 from cash on hand to calculate incremental capital costs of $3,857,500. She accepted ERSC's calculation of incremental capacity and recommended a $2,500 SDC for customers with a 5/8" meter.

6. **Settlement.** Mr. Krohn's April 5, 2023 letter indicates ERSC and the OUCC agreed upon the following:

A. **Rate Increase/Revenue Requirement.** ERSC should be authorized to increase its rates and charges overall by 5.48% for an increase of $60,787 annual operating revenue. The parties' agreement includes a $97,800 decrease for connection charges and an $11,411 increase to residential revenue. The adjustments result in a pro forma operating revenue of $1,110,741.

B. **Operating Expense Adjustments.** The OUCC agreed to several of the ERSC's expense adjustments including $2,350 rate case expense, $5,148 billings and collections, $337 payroll taxes, and $1,587 salaries and wages. The Settling Parties agreed upon a $3,500 decrease to contractual services - accounting fees, $2,000 decrease to contractual services - legal fees, $2,745 decrease to miscellaneous expenses, and $16,743 removal of URT. The agreement includes no reduction adjustment to the $229 employee benefits as ERSC did not incur these expenses during the test year. Additional Adjustments include a $540,000 decrease to purchased wastewater treatment and $4,390 increase to purchased wastewater treatment due to test year normalization. The adjustments result in pro forma operating expense of $992,554.

C. **Connection Charge and SDC.** ERSC will eliminate the $1,200 connection charge. ERSC should be authorized to implement a SDC of $3,600, which includes eliminating cash on hand from the calculation and removing proposed projects from the calculation that were not considered sufficiently related to customer growth. ERSC should use the cash on hand for other projects including those removed from the SDC calculation.

7. **Commission Discussion and Findings.** While the Settling Parties did not formally enter into a settlement agreement, we consider the parties' agreement in the same manner as we would a formal agreement. Thus, we consider whether the evidence presented supports finding that the agreement reached between the parties is reasonable, just, and consistent with the purpose of Ind. Code Ch. 8-1-2, and that such agreement serves the public interest.

Under Ind. Code § 8-1-2-125, rates for a not-for-profit utility are calculated by first determining the amount of the adjusted net operating expenses based on the utility's current rates. The adjusted amounts are based on known recurring expenses, updated to include changes that are fixed, known, and measurable, and expected to occur within 12 months of the end of the test year. The following table shows a comparison of the revenue requirement set forth in ERSC's Application and the proposed settlement amount:

	Applicant	Settlement	More (Less)
Operating Expenses	$1,202,593	$ 988,386	$ (214,207)
Taxes other than Income	4,168	4,168	-
Extensions and Replacements	-	220,550	220,550
Total Revenue Requirements	1,206,762	1,213,104	6,343
Less: Interest Income	(30,465)	(41,647)	(11,182)
Net Revenue Requirements	1,176,297	1,171,457	(4,839)
Less: Revenues at current rates subject to increase	(1,069,171)	(1,110,078)	(40,907)
Other revenues at current rates	(663)	(663)	-
Revenue Increase Required Excluding Taxes	106,462	60,716	(45,746)
IURC Fee (0.11633720%)	124	71	(53)
Recommended Increase	106,586	60,787	(45,799)
Recommended Percentage Increase	9.97%	5.48%	-4.49%

Pursuant to the Settling Parties' agreement, the SDC calculation is as follows:

System Development Charge Calculation

Capacity Related Projects	Cost
Ellettsville Projects	
Replace primary sewer main	$ 500,000
WWTP equalization basin	1,530,000
WWTP upgrades	765,000
ERSC Projects	
New parallel interceptor	2,750,000
Total Capacity Related Projects	$ 5,545,000
Deduct cash on hand	-
Net Incremental Cost	$ 5,545,000
Incremental EDUs	1,543
Computed SDC	$ 3,594
Rounded to nearest hundredth.	$ 3,600

A. Other Considerations.

i. I&I Documentation and Reporting. We agree with the OUCC that ERSC has an ongoing I&I problem, and, except for three years of reporting, has generally complied with the Commission's Orders in Cause Nos. 43921 and 47391 U, making a good-faith effort toward abating I&I. It is reasonable to believe that ERSC's continued efforts to address its I&I issues have resulted in some level of abatement, but as the OUCC suggests, progress is difficult to assess without estimating the removal efforts and regular flow monitoring to assess actual progress. We find the recommendations of the OUCC are warranted, reasonable, and should be implemented. ERSC shall continue to submit annual reports consistent with the final orders in Cause Nos. 43921 and 47391 U and begin estimating I&I removal through its rehabilitation/replacement program. Within two years of the Order in this Cause, ERSC shall provide data defining the remaining I&I within its system. The Commission finds that the three reports ERSC failed to provide do not need to be submitted due to the age of the information that would be included in these reports.

ii. **E&R.** The Settling Parties agreed upon an E&R amount of $220,550 based on what Ms. Sullivan determined should be reclassified from operating expenses to property plant and equipment in the test year, rather than using a multi-year average, which is the methodology used in the Application. Nonetheless, we find that ERSC likely will be able to spend the proposed level of E&R going forward given the level of I&I the utility is experiencing.

B. **Conclusion.** Based on the evidence presented as discussed above, we find the parties' agreement is reasonable, consistent with applicable legal requirements, and in the public interest. Accordingly, ERSC is authorized to increase its monthly recurring rates and charges by 5.48% for an annual net revenue increase of $60,787 annually.

8. **Effect on Rates.** A residential customer using 5,000 gallons per month will experience an increase of $2.32 from $42.46 to approximately $44.78.

9. **Alternative Regulatory Program ("ARP").** If ERSC elects to participate in the Small Utility ARP in accordance with the procedures approved in Cause No. 44203, the eligible operating expenses to which the Annual Cost Index will be applied are $556,619. E&R of $220,500 are also eligible expenses to which the Annual Cost Index will be applied.

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

1. Consistent with the findings above, ERSC is authorized to increase its monthly recurring rates and charges by 5.48% for an annual net revenue increase of $60,787 annually.

2. ERSC shall continue to submit annual reports consistent with the Orders in Cause Nos. 43921 and 47391 U, with one addition. ERSC shall begin estimating I&I removal through its rehabilitation/replacement program and, within two years of the Order in this Cause, ERSC shall provide data defining the remaining I&I within its system. ERSC shall file its annual reports through the "File a Utility Annual Report" section in the Commission's Electronic Filing System.

3. ERSC's rate tariff filed on April 6, 2023, shall be effective on or after the date of this Order, subject to the Commission's Water and Wastewater Division review and agreement with the amounts reflected.

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

<u>HUSTON, BENNETT, FREEMAN, AND ZIEGNER CONCUR; VELETA ABSENT</u>:

APPROVED: JUL 05 2023

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

Dana Kosco Digitally signed by Dana Kosco
Date: 2023.07.05 10:09:23 -04'00'

**Dana Kosco
Secretary of the Commission**