ORIGINAL

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

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF LAWRENCEBURG MANCHESTER SPARTA TOWNSHIPS CONSERVANCY DISTRICT FOR A NEW SCHEDULE OF RATES AND CHARGES.

CAUSE NO. 45412 U

APPROVED: FEB 24 2021

ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
David E. Veleta, Senior Administrative Law Judge

On August 13, 2020, Lawrenceburg, Manchester, Sparta Townships Conservancy District ("LMS" or "Applicant") filed an application with the Indiana Utility Regulatory Commission ("Commission") as a small utility for approval of an across-the-board water rate increase.

On September 17, 2020, the Water and Wastewater Division of the Commission issued a Memorandum finding LMS's small utility rate filing was complete.

On November 12, 2020, as required by 170 IAC 14-1-4(a), the Indiana Office of Utility Consumer Counselor ("OUCC") filed its report, proposing adjustments to LMS's revenue requirement calculations and making certain recommendations. On January 27, 2021, the OUCC submitted Supplemental Testimony.

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 by the OUCC. No hearing request was received, and no hearing was held.

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

1. **Commission Jurisdiction and Notice.** The record establishes that legal notice of the filing of this small utility rate case and the proposed rate increase was given and published in accordance with applicable law. The Commission, therefore, finds that notice of this matter was given and published as required by law. LMS is a conservancy district that has elected to furnish water under Ind. Code ch. 14-33-20, and changes in its rates and charges are, per the 1964 Order, subject to the Commission's jurisdiction; consequently, the Commission has jurisdiction over LMS and the subject matter of this Cause and may issue an Order based upon the information filed as provided by 170 IAC 14-1-6.

2. **Applicant's Characteristics.** LMS is a conservancy district, established to provide water service to customers within Lawrence, Manchester, and Sparta Townships in Dearborn County, Indiana. LMS currently serves approximately 2,087 water customers, including one wholesale customer (Hogan Water Corporation). Its infrastructure includes two wells, approximately 73 miles

of PVC and asbestos cement ("AC") mains ranging from two to twelve inches in diameter, booster stations, and four elevated storage tanks. LMS's existing schedule of rates and charges was approved in the Commission's August 2, 2017 Order in Cause No. 44900 U ("44900 U Order").

3. Relief Requested. LMS requests a 20.88% across-the-board rate increase, which would increase annual operating revenues by $152,845 for higher operating expenses and necessary capital improvements. Applicant proposed an Extensions & Replacements ("E&R") revenue requirement of $28,592 for meters, hydrants, and other equipment. Applicant also proposed $1,473,060 of new debt with debt service of $284,772, for the installation of a 12-inch PVC main and 135 attached service lines.

4. Test Year. The test year for determining LMS's actual and pro forma operating revenues, expenses, and operating income under present and proposed rates is the 12 months ending December 31, 2019. With adjustments for changes that are sufficiently fixed, known, and measurable, the Commission finds this test period is sufficiently representative of LMS's normal operations to provide reliable data for ratemaking purposes.

5. Pro forma Test Year Operating Revenues. LMS calculated its net revenue requirement to be $897,024. In its report, the OUCC disagreed with this amount and proposed a net revenue requirement of $893,148.

6. Commission Discussion and Findings.

A. Petitioner's Rates and Revenue Requirements. Pursuant to Ind. Code § 14-33-20-14, changes to LMS's rates and charges for water service are subject to the Commission's jurisdiction in the same manner as municipal utilities. Ind. Code § 14-33-20-13 establishes the revenue requirements the Commission is to apply in determining just and reasonable rates for conservancy districts. Similar to the statute governing municipal water utilities (Ind. Code § 8-1.5-3-8), Ind. Code § 14-33-20-13 requires that the charge for conservancy district services produce sufficient revenue to pay all the legal and other necessary expenses incident to operating its water facilities.

Thus, Ind. Code § 14-33-20-13 establishes the revenue requirements the Commission applies in determining just and reasonable rates for LMS. There is no dispute as to the revenue requirement elements, but the OUCC proposed several adjustments to LMS's revenue requirements. These adjustments resulted in the OUCC recommending an overall 18.76% rate increase, for an annual revenue increase of $139,163.

The table below demonstrates a comparison of Applicant's and the OUCC's recommended revenue requirements:

Revenue Requirements

	Per Applicant	Per OUCC
Operating Expenses	$ 584,504	$ 580,628
Taxes Other Than Income	3,481	3,481
Extensions and Replacements	28,592	28,592
Debt Service	284,772	284,772
Total Revenue Requirements	901,349	897,473
Less Revenue Requirement Offsets:		
Interest Income	(4,325)	(4,325)
Other Income (Rental Income)	-	-
Net Revenue Requirement	897,024	893,148
Less: Revenues at Current Rates subject to increase	(732,178)	(741,784)
Other Revenues not subject to increase	(12,201)	(12,201)
Net Revenue Increase Required	152,645	139,163
Divide by Revenue Conversion Factor	1.0013	1.0000
Recommended Increase	$ 152,845	$ 139,163
Recommended Percentage Increase	20.88%	18.76%

The Commission finds that the OUCC's recommended revenue requirements as discussed in Paragraph No. 6 and shown in the Table above are reasonable and should be approved. The Commission notes that LMS did not file rebuttal or otherwise oppose any of the OUCC's revisions in its proposed revenue requirements. The Commission finds that Applicant's rates and charges should, therefore, be increased by 18.76% across-the-board to permit LMS to meet its revenue requirement under Ind. Code § 14-33-20-13.

B. **Extensions and Replacements.** LMS requested an E&R budget totaling $85,776 amortized over three years, for an annual E&R allowance of $28,592. These proposed E&R projects are listed below:

Capital Improvements	Cost
Service Truck	$38,411
Meters	19,800
Mobile Data Collector	8,500
Hydrants	19,065
Total	$85,776
Divided by proposed life of rates	3
Average Annual E&R	$28,592

LMS also proposed to fund two major Capital Improvement Plan ("CIP") projects with bank loans. These projects include a 12-inch main replacement at a cost of $1,100,700; and 135 service line replacements at a cost of $267,360, for a total of $1,473,060.

Carl N. Seals, Richard J. Corey, and Shawn Dellinger prepared the OUCC's Report. Mr. Corey indicated that LMS proposed a pro forma revenue requirement of $28,592 for E&R based on projected average annual capital additions for the years 2021 through 2023. Mr. Seals explained that LMS's CIP proposes to replace five miles of 6-inch and 8-inch AC main with 12-inch PVC and Ductile Iron mains. The project will improve flow capacity, reduce friction losses, reduce pressures and replaces service lines along the route. The main being replaced serves Moore's Hill, Hogan Water Company and 50% of LMS's water customers and should help to reduce water loss. Mr. Seals determined that LMS's proposed E&R revenue requirement is less than one-fourth of its pro forma test year depreciation expense of $133,243, which further supports its reasonableness. Mr. Seals recommended the Commission approve both the CIP and LMS's requested $28,592 for its E&R revenue requirement.

The Parties agree that the proposed CIP and resulting E&R revenue requirement should be approved. We find this amount to be reasonable and approve LMS's proposed CIP and resulting E&R revenue requirement of $28,592.

C. Debt Service. LMS proposed to issue new debt of $1.5 million ($100,000 initial one-year loan and $1,400,000 Project Loan 20 years) with an estimated interest rate of 4.0%. LMS requests annual debt service recovery of $284,772, which is based on a three-year average 2020-2022 as shown below.

Loans	2020	2021	2022	2023	2024	2025	2026
CiVista 618017324	$ 112,220	$ 112,220	$ 112,220	$ 76,278	$ -	$ -	$ -
CiVista 618007931	$ 116,619	$ 116,619	$ 116,619	$ 116,619	$ 116,619	$ 116,619	$ 58,309
Project Loan	$ -	$ 58,675	$ 109,125	$ 109,125	$ 109,125	$ 109,125	$ 109,125
Total	$ 228,839	$ 287,514	$ 337,964	$ 302,022	$ 225,744	$ 225,744	$ 167,434

Mr. Dellinger agreed with the three-year average of $284,772 but recommended additional filings when debt service is reduced beginning in 2024. Based on the payments specified, he indicated CiVista loan #7324 should be retired August of 2023, while CiVista loan #7931 should be retired May of 2026. He recommended the Commission require a rate adjustment after each of these debt issuances are paid off and there is no expense to be paid. In August of 2023 and again in May of 2026, LMS should file an amended tariff revising its rates to remove the revenue requirement associated with the retired borrowing. Alternatively, he recommended making extra payments against CiVista loan #7931 once CiVista loan #7324 has been paid off. This allows debt service costs to remain stable until both loans are retired, resulting in one rate reduction for ratepayers on a date that is later than August 2023 and earlier than May 2026. He also recommended capping the interest rate at 5.5%.

In a Supplemental Filing, Mr. Dellinger continued to recommend debt service of $284,772. He provided documents that show LMS has consolidated its debt into two issuances: Loan #1 for $1,800,000 at 2.875% for 129 months and Loan #2 for $610,000 at 2.875% for 84 months. The yearly debt service for these two loans is shown below:

Year	Loan #1	Loan #2	Total
2021	$ 90,653	$ 95,940	$ 186,593
2022	$ 207,360	$ 95,940	$ 303,300
2023	$ 207,360	$ 95,940	$ 303,300
2024	$ 207,360	$ 95,940	$ 303,300
2025	$ 207,360	$ 95,940	$ 303,300
2026	$ 207,360	$ 95,940	$ 303,300
2027	$ 207,360	$ 95,940	$ 303,300
2028	$ 207,360		$ 207,360
2029	$ 207,360		$ 207,360
2030	$ 207,360		$ 207,360
2031	$ 155,520		$ 155,520

Mr. Dellinger indicated the $284,772 equates to an average annual debt service over six years and four months, which is not an unreasonable estimate for the life of these rates. The five-year average is $279,959 and the six-year average is $283,849. He noted that by consolidating the original loans, LMS will have more uniform debt service requirements, eliminating the need for rate revision as the OUCC had originally proposed. Furthermore, without increasing its debt service revenue requirements in the short term, all LMS's currently authorized debt would expire in ten years as opposed to twenty years.

Mr. Dellinger also recommended that the Commission require Applicant to file a report within 30 days of closing on its long-term debt disclosing the terms of the loan or loans and stating when principal payments will begin. Further, the report should include a revised tariff and amortization schedule, and it should calculate the effect on rates using the form in the OUCC's schedules. However, if both parties agree in writing that the increase or decrease is immaterial, the true-up need not be implemented. The OUCC should have 30 days after service of the true-up to challenge Applicant's proposed true-up. Applicant should have 14 days to file a response to the OUCC if it has challenged Applicant's calculation.

When a utility files a Small Utility Rate Application, it chooses whether to have rates be based on three years or five years, depending on the time period the utility expects to pass before it requests another rate case. If three years is chosen, the calculation of debt service is based on a three-year average. In this case, Applicant chose three years, so debt service was based on a three-year average resulting in annual debt service of $284,772. The OUCC originally agreed with the three-year average and recommended $284,772, with a condition of rate decreases when certain loans were paid off, which reduces debt service.

We have considered the calculation of debt service in the OUCC's supplemental filing and recommend approval for several reasons. As Mr. Dellinger indicated the $284,772 equates to an average annual debt service over six years and four months. We believe this is a reasonable estimate for the life of these rates. Additionally, Applicant did what the OUCC suggested and obtained much better loan terms, which will result in this debt service being a burden on ratepayers for only 11 years instead of 20 years.

The debt service true-up mechanism is similar to what has been approved in prior cases, with one exception. The OUCC has proposed a 30-day review period within which to challenge Applicant's proposed true-up. We believe 14 days is sufficient to review any true-up report. Thus, we approve debt service of $284,772 and the OUCC's true-up mechanism with a 14-day review period.

D. <u>Revenues</u>. As of December 31, 2019, LMS had test year water revenues of $742,443. To normalize test year customer growth, LMS proposed a test year residential customer growth adjustment of $1,936, based on 71 additional bills at an average cost of $27.26 per bill.

Mr. Corey accepted LMS's test year revenue adjustment and proposed two additional pro forma customer revenue growth adjustments related to the post-test year period, as of December 31, 2019. These two adjustments included $7,197 for residential growth based on an additional 264 bills (or 22 residential customers); and $2,409 for commercial growth, based on the addition of one new commercial customer, Flagship Farms, beginning in June 2020. Flagship Farms' estimated revenues were based on the average of three months of billings of $382, multiplied by the remaining six months of usage, plus six months of minimum monthly billings of $19.01 for a 5/8" meter.

We agree with the test year revenue adjustments of LMS and the OUCC. This results in a total pro forma adjustment of $11,542, which yields pro forma present residential and commercial water revenues of $753,985.

E. <u>O&M Expense</u>. LMS proposed an increase in pro forma operating expenses of $62,468 to test year operating expenses of $506,916 (excluding depreciation expense), yielding pro forma operating expense of $569,384.

Mr. Corey accepted the majority of LMS's O&M expense adjustments, with the exception of the IURC Fee which does not apply to conservancy districts, and a few minor reclassifications and adjustments. He also proposed corresponding increases in O&M expenses related to his two proposed customer growth revenue adjustments. The OUCC's resulting pro forma O&M expense is $565,508 (excluding depreciation expense).

We agree with LMS's O&M expense adjustments that were accepted by the OUCC, and the OUCC's additional proposed O&M expense adjustments.

F. <u>Restricted Account</u>. Mr. Seals recommends the Commission order LMS to place $54,757 per year, for 15 years into a restricted account so that the funds will be available when needed to complete tank maintenance. He does not recommend the continuation of LMS's current restricted account for well and pump maintenance. He justifies his recommendation by explaining that this represents a large future expense for this utility, and it creates a material cost in rates for ratepayers.

While LMS did not file rebuttal, Mr. Hershell Gossett, President of LMS, contacted Commission staff to state that while he would prefer not to have a restricted account. If the Commission decides to order a restricted account, he recommends the restricted account continue to accumulate both well and tank maintenance expenditures, not simply tank maintenance costs.

In LMS's prior rate case, the Commission ordered LMS to create two restricted accounts – 1.) A restricted E&R account into which $11,171 per month was to be deposited and used to rehabilitate three water storage tanks; and 2.) a tank inspection and periodic well and pump maintenance account into which $6,000 per year was to be deposited. The first restricted account was recommended by the Commission and the second restricted account was recommended by the OUCC. The intent of both restricted accounts was to ensure that both capital expenditures and periodic maintenance was properly budgeted for and available, which prior LMS management had not performed. However, LMS hired a new Superintendent who filed and oversaw both its last and current rate cases and has managed all related compliance. Since its last rate case, LMS has filed seven semi-annual compliance reports that have tracked its completion of proposed E&R projects and periodic maintenance. LMS's current management has proven that it can professionally manage and operate a utility and has corrected the mistakes of prior administrations. Thus, the first restricted account is no longer necessary because all capital projects have been completed. Due to the large expenditures related to tank maintenance, it is reasonable from an accounting perspective to continue to account for tank maintenance via the second restricted account, to ensure sufficient funds are available when needed. Therefore, LMS should continue to use a restricted account dedicated to both well and tank maintenance. However, because current LMS management has demonstrated proper financial and operational management of the utility, we will no longer require that compliance reporting related to this restricted account be filed.

G. Alternative Regulatory Program ("ARP"). If Petitioner elects to participate in the Small Utility ARP in accordance with procedures approved in Cause No. 44203, the eligible operating expenses to which the Annual Cost Index will be applied are $580,628. Taxes Other Than Income of $3,481 and Extensions & Replacements of $28,592 are also eligible expenses to which the Annual Cost Index will be applied. All other components of Petitioner's revenue requirement will remain unchanged.

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

1. LMS is authorized to increase its rates and charges to produce additional revenues from rates of $139,163, a 18.76% increase in rate revenues, resulting in total annual rate revenue of $897,473.

2. Prior to implementing the rates and charges authorized in this Order, LMS shall file new rate schedules under this Cause for approval by the Commission's Water and Wastewater Division. Such rates shall be effective on and after the Order date, subject to Division review and agreement with the amounts reflected.

3. In accordance with Ind. Code §§ 14-33-20-12, 8-1-2-170, and GAO 2009-3, LMS shall pay the following charges within 20 days from the date of this Order to the Secretary of the Commission and any additional costs that were or may be incurred in connection with this Cause:

Commission Charges	$ 1,000
OUCC Charges	$ 2,000
Legal Advertising Charges	$ 55
Total	$ 3,055

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

<u>HUSTON, FREEMAN, KREVDA, OBER, AND ZIEGNER CONCUR</u>:

APPROVED: FEB 24 2021

**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: 2021.02.24
10:16:16 -05'00'

**Dana Kosco
Secretary of the Commission**