



The State Agency Representing
Hoosier Utility Ratepayers

June 28, 2022

Dana Kosco
Secretary of the Commission
Indiana Utility Regulatory Commission 101
West Washington St, Suite 1500 E
Indianapolis, IN 46204

RE: OUCC's Objection to Indiana-American Water Company 30 Day Filing (TD50533)

Dear Ms. Kosco,

As a result of the utility receipts tax ("URT") repeal codified in Ind. Code § 8-1-2-4.2 (HEA 1002), Indiana-American Water Company, Inc. ("IAWC") submitted a 30-Day Filing on April 29, 2022 to update its rates and charges. The OUCC has reviewed IAWC's filing and determined it has an objection to its proposal and calculations. While the OUCC contacted IAWC in order to resolve its objection, despite our best efforts, the basis of the objection remains. Because Section 4.2(e) requires the URT rate adjustment to "take effect upon the effective date of the repeal of the utility receipts tax," which the OUCC understands to be July 1, 2022, the OUCC submits this objection pursuant to 170 IAC 1-6-7.

The water and wastewater rates currently charged by IAWC were approved in various IURC proceedings. Cause No. 45142 was IAWC's last base rate case, setting most of IAWC's water and wastewater tariff rates. These rates were further adjusted in Cause No. 45032-S4 to reduce the federal income tax rate to 21% and address excess accumulated deferred income taxes. IAWC's distribution system improvement charge rates ("DSIC") were established in Cause Nos. 42351-DSIC12 and 42351-DSIC 13. In some instances, IAWC continues to charge the rates an acquired utility was charging its customers prior to its acquisition by IAWC, including Rivers' Edge (water and wastewater), Town of Lowell (water), and Town of Sheridan (wastewater).

Summary of IAWC Proposal:

In TD #50533, IAWC proposes no reduction to its current flat customer charges for retail water customers as it asserts these rates "were established by settlement and do not include recovery of the utility receipts tax." IAWC also proposes no reduction to its current sale for resale rates as these rates do not include recovery of the utility receipts tax. IAWC proposes to reduce its remaining water and wastewater charges as follows (approximately):

Description	Rate	IAWC Proposed Reduction
Water Rates and Charges:		
Area One		-1.55%
Area Two		-1.55%
Area Three (Rivers' Edge)		-1.01%
Area Four (Town of Lowell)		-1.01%
Customer Charge		No Change
Private Fire Service		-1.01%
Private Fire Hydrant Service		-1.01%
Public Fire Hydrants		-1.00%
Public Fire Protection Surcharge		-1.00%
Distribution System Improvement Charge		-0.80%
Wastewater Rates and Charges:		
Somerset and Delaware County		-1.01%
Town of Sheridan		-1.01%
Rivers' Edge		-1.01%

Summary of OUCC Concerns:

The OUCC maintains that IAWC’s calculations do not remove all of the utility receipts taxes (“URT”) that each of its current water and wastewater rates were designed to recover in violation of Ind. Code § 8-1-2-4.2(c)(1)..

The OUCC also disagrees with IAWC’s assertion that its fixed customer charges are not designed to recover URT and maintains these rates should also be reduced to reflect the URT repeal. The OUCC accepts IAWC’s assertion that its sale for resale rates are not designed to recover URT. Each IAWC recurring water and wastewater rate will be discussed in detail below, including the OUCC’s calculation of its recommended rate reduction percentage(s) and tariff rate(s).

Supporting Documentation

Attached to the OUCC’s objection are the following items:

- OUCC-1 –Tariff reflecting rates recommended by the OUCC (Excel);
- OUCC-2 – OUCC’s detailed calculations of the necessary rate reductions to remove utility receipts tax from IAWC’s current rates (Excel)
- OUCC-3 – Cause No. 45142 Public’s Ex. No. 1, Schedule 4 (pdf);
- OUCC-4 – Final Order in Cause No. 44876-U (pdf);
- OUCC-5 – Final Order in Cause No. 43115 (pdf)

OUCC-6 – OUCC’s detailed calculations of the necessary rate reductions to remove utility receipts tax from River’s Edge wastewater rates (Excel);

OUCC-7 – Cause No. 43115 Settlement Schedules (with URT as filed) (Excel);

OUCC-8 – Cause No. 43115 Settlement Schedules (without URT) (Excel).

OUCC-9 – Email communication between M. Stull and G. Shimansky

BASE RATES ESTABLISHED IN CAUSE NO. 45142

IAWC provided Exhibit 2 (Excel version) as support for its calculation of the necessary rate reductions due to the repeal of the utility receipts tax. However, there is a flaw in IAWC’s calculations, causing it to understate the amount of URT its current rates are designed to recover. The tab labeled “Revenues” presents IAWC’s calculations, which are detailed step by step below. Column C “May 2020 Rate Case” reflects the revenues approved in the Cause No. 45142 Final Order and Column D “July 1 2020” reflects these revenues after adjustments approved in Cause No. 45032-S4. IAWC’s calculations do not include any effect the removal of URT has on state income tax expense.¹ Below is a list, by line, of the OUCC’s concerns with IAWC’s calculations as shown in IAWC’s Exhibit 2:

- Line 11² – Reflects the amount of proposed rate revenues on which IAWC’s current rates and charges were based as approved in Cause No. 45142. The OUCC agrees these are the revenues approved in Cause No. 45142, as adjusted for Cause Nos. 45032, 42351-DSIC12 and 42351-DSIC13.
- Line 12 – Reflects the amount of proposed rate revenues excluding sale for resale revenues, which are not subject to the URT. The amount on this line represents taxable revenues subject to the URT. The OUCC agrees these are the revenues subject to URT as approved in Cause No. 45142 as adjusted.
- Lines 13 and 14 – Reflects the gross revenue conversion factor to be applied to the revenue increase required. This factor “grosses-up” a proposed revenue increase for additional bad debt expense, URT, and income taxes.
- Line 15 – Reflects revenues “before gross-up.” IAWC calculates this amount by taking Line 12 and multiplying it by line 14, the “conversion factor.” IAWC uses the amount on line 15 to calculate the amount of URT included in rates. The OUCC disagrees that this is the correct amount on which to determine the amount of URT included in rates.
- Line 16 – Reflects the effective URT rate of 1.3841% included in the gross revenue conversion factor. The OUCC agrees this is the URT rate, after excluding bad debt expense as it is deductible for URT purposes. This is the rate that would be applied to the revenues subject to the URT to determine the amount of additional URT due to a revenue increase to include.

¹ The removal of URT has no effect on federal income taxes as taxable income remains the same. However, because URT was not deductible for state income tax purposes, the removal of URT reduces the amount of state taxable income and therefore reduces the amount of state income tax that should be recovered in rates.

² Line references in this discussion refer to the labels in Column A of this spreadsheet and not to the actual Excel line numbers.

- Line 17 – Line 15 x Line 16 - Reflects the amount of URT IAWC asserts its current rates are designed to recover. As the OUCC disagrees with the amount reflected on Line 15, it disagrees with the amount reflected on Line 17.

The OUCC maintains that IAWC has understated the amount of URT included in rates. The amount reflected on line 15 is understated as it inappropriately removes more than just the URT portion included in revenues. It is inappropriate to apply the full gross-up factor to determine the amount of revenues without the URT. Instead, only the URT portion of the gross-up factor should have been used in the calculation on line 15. As further evidence that IAWC’s calculation of the URT expense included in rates is understated, the OUCC notes that the amount of URT expense included in IAWC’s base year net operating income was \$2,910,439 (Attachment OUCC-3). This amount is before any increase in URT due to base year adjustments or the ultimate rate increase approved in Cause No. 45142. This compares to the \$2,299,284 as reflected in Column C, \$611,155 less than the amount included in the base period. There is also a small error in the calculation on line 19, which calculates the percentage reduction to rates to remove URT. IAWC divides the URT amount by line 15, retail revenues before the gross-up for URT, but this calculation should divide URT by line 12, total retail operating revenues, as it is total retail operating revenues that should be adjusted.

On June 27, 2022, the OUCC reached out to IAWC to discuss this calculation and IAWC agreed generally with the OUCC’s calculation (Attachment OUCC-9).

The OUCC recommends the following calculation to determine the amount of URT included in base rates, excluding the rates charged to Rivers’ Edge, Lowell, and Sheridan (wastewater):

Table 1: OUCC Recommended Calculation of URT Rate Reduction – Base Rates

			May 1 2020	TCJA/CIAC	
			Rate Case	Settlement	July 1 2020
11	Total Operating Revenues		\$ 240,249,127	\$ (6,717,777)	\$ 233,531,350
	Less: Sale for Resale		11,857,309	(550,360)	11,306,949
12	Retail Operating Revenues		228,391,818	(6,167,417)	222,224,401
16	Percentage of URT Calculated	CN 45142	1.3841%	1.3841%	1.3841%
15	Retail Revenues -Excluding URT	line 12 x (1- line 16)	225,230,647	(6,082,054)	219,148,593
17	Utility Receipts Tax in Rates		\$ 3,117,417	\$ (84,182)	\$ 3,033,236
19	Percent of URT in Rates		1.3600%	1.3600%	1.3600%

Based on this corrected calculation, the OUCC recommends all base rates established in Cause No. 45142, as adjusted by Cause No. 45032-S4, should be reduced by 1.36%. (See also Attachment OUCC-2.) The tariff rates to be reduced by 1.36% include:

Water Rates

- Area One Rates – Volumetric
- Area Two Rates - Volumetric
- Customer Charge – Retail Only
- Private Fire Service
- Private Fire Hydrant Service
- Public Fire Hydrants
- Public Fire Protection Surcharge

Wastewater Rates

- Somerset and Delaware County Rates

CUSTOMER CHARGE

IAWC proposes no reduction to its current flat monthly customer charges for retail water customers as it asserts these rates “were established by settlement and do not include recovery of the utility receipts tax.” In order to verify IAWC’s assertions regarding the design of its rates as approved in Cause No. 45142, the OUCC requested a copy of IAWC’s Cause no. 45142 cost-of-service study in Excel format. Pursuant to the terms of the non-disclosure agreement with IAWC, the OUCC no longer retains a copy of this confidential document. Through the course of the OUCC’s informal discussions with IAWC in an attempt to resolve its concerns with IAWC’s 30-Day Filing, IAWC did not provide the requested document. As such, the OUCC was unable to verify that IAWC’s flat monthly customer charges were not designed to recover URT.

IAWC also argues that its flat monthly charges were the result of a negotiated settlement agreement and, therefore, should not be reduced. IAWC included a copy of the settlement agreement (Exhibit 3) to support its argument. According to the settlement agreement, the rate design can be found in Appendix C, but the OUCC could not locate Appendix C among the documents included in Exhibit 3. To the extent IAWC is arguing that the Cause No. 45142 settlement agreement supersedes HEA 1002 and § 8-1-2-4.2(c)(1) specifically, that argument should be rejected. The Indiana General Assembly has required that URT is removed from “each rate or charge in effect at the time of the filing that includes recovery of utility receipts tax.”

While the settlement agreement does state that IAWC’s fixed monthly charges were the result of negotiations among the parties, IAWC has not shown which costs the customer charges were designed to recover and which costs were excluded from the customer charge rates. Without the detailed schedules showing the allocation of costs to each rate and customer class, the only reasonable conclusion is that all the base rates approved in Cause No. 45142 were designed to recover taxes, including URT.

Should the Commission find that IAWC’s flat customer charges are not designed to recover URT, the OUCC maintains the reduction to IAWC’s volumetric and fire protection charges should be adjusted to ensure that all URT is removed from current rates. The customer charge revenues were subject to URT and were included in the determination of URT to be included in rates in Cause No. 45142. However, if these revenues are not reduced, then the URT related to these revenues must be recovered from the other rates, necessitating a larger percentage increase than reflected in Table 1 above.

If IAWC’s flat monthly customer charges are not reduced for URT, the OUCC recommends the following calculation is used to determine the amount of URT included in base rates:

**Table 2: OUCC Calculation of URT Rate Reduction
Without a Customer Charge Reduction**

			July 1 2020
11	Total Operating Revenues		\$ 233,531,350
	Less: Sale for Resale		11,306,949
12	Retail Operating Revenues		222,224,401
	Less: Customer Charge Revenues		66,381,886
	Retail Operating Revenues, excluding Customer Charges	(B)	\$ 155,842,515
16	Percentage of URT Calculated	CN 45142	1.3841%
15	Retail Revenues -Excluding URT	line 12 x (1- line 16)	219,148,593
17	Utility Receipts Tax in Rates	(A)	\$ 3,033,236
19	Percent of URT in Rates	(A) / (B)	1.9500%
<u>Customer Charge Revenues:</u>			
	Residential		\$ 51,774,547
	Industrial		1,001,684
	Commercial		13,605,655
			<u>\$ 66,381,886</u>

If the customer charges are not reduced, the OUCC recommends all Area One and Area Two volumetric rates and fire protection rates should be reduced by 1.95%. (See also Attachment OUCC-2.)

ADDITIONAL WATER RATES AND CHARGES

A. Area Three Rates applicable to Rivers' Edge Customers:

Subsequent to the acquisition of Rivers' Edge water utility, as shown in its 30-day filing, IAWC continues to charge Rivers' Edge customers the water rates as approved in Cause No. 44876-U. The monthly rates charged include a volumetric rate of \$1.29 per 100 gallons and a campground/mobile home flat rate of \$64.50 per lot. There is no fixed monthly charge.

IAWC calculates a 1.01% reduction to these rates, but its calculation is not based on the amount of URT included in Cause No. 44876-U. Instead, IAWC based its proposed reduction on its determination of the percentage of URT included in its own base rates as approved in Cause No. 45142 – 1.01%³.

The OUCC recommends a 1.37% reduction based on the amount of URT included in rates in Cause No. 44876-U. Per the Final Order in 44876-U (Attachment OUCC-4), proposed rate revenues were \$49,712 and included \$682 of URT. Therefore, URT represents 1.37% ($\$682 / \$49,712$) of total operating revenues and this is the percentage these rates should be reduced to reflect the URT repeal.

Note: In Cause No. 44876-U, no return on investment was requested, so there was no net income and no income tax expense included in rates. Therefore, no additional income tax effect needs to be factored into the determination of the rate reduction to remove utility receipts taxes for these rates.

	Current Rate	IAWC Proposed	OUCC Recommended
Volumetric Rate (per 100 gallons)	\$1.2900	\$1.2777	\$1.2720
Campground	\$64.50	\$63.85	\$63.62

B. Area Four Rates applicable to Town of Lowell Customers:

Subsequent to the acquisition of the Town of Lowell water utility, as shown in its 30-day filing, IAWC continues to charge Town of Lowell customers the water rates in effect on the date of IAWC’s acquisition. The monthly rates charged are based on a tiered volumetric rate ranging from \$1.116 per 100 gallons for the first 5,000 gallons to \$.891 per 100 gallons for consumption over 30,000 gallons. There is no fixed monthly charge.

IAWC calculates a 1.01% reduction to these rates based on its determination of the percentage of URT included in its own base rates as approved in Cause No. 45142 – 1.01%³.

The Town of Lowell was unregulated prior to its acquisition by IAWC and, therefore, there is no information available regarding how these rates were determined or how much URT the rates were designed to recover.

The OUCC accepts IAWC’s proposal to apply the same percentage reduction to the Town of Lowell rates as applied to its base rates as approved in Cause No. 45142. However, the OUCC recommends a 1.36% reduction based on the OUCC’s calculations as presented in Table 1 above.

³ 1.01% = $\$2,237,195 / \$222,224,401$. See Exhibit 2, “Revenues” tab, Column G. lines 17 (utility receipts tax in rates) and line 12 (revenues excluding sale for resale)

C. Distribution System Improvement Charge

IAWC provided Exhibit 2 as support for its calculation of the URT-related rate reductions. However, as discussed in detail above, there is a flaw in IAWC’s calculations, causing it to understate the amount of URT its current rates are designed to recover. The tab labeled “Revenues” presents IAWC’s calculations with Column I “DSIC-12” reflecting the revenues approved in the Cause No. 42351-DSIC12 and Column K “DSIC-13” reflecting the revenues approved in the Cause No. 42351-DSIC13. IAWC’s calculations do not include any effect the removal of URT has on state income tax expense.⁴

The OUCC recommends the following calculation to determine the amount of URT included in IAWC’s distribution system improvement charge rates. Based on this corrected calculation, the OUCC recommends IAWC’s DSIC rate should be reduced by 1.36%. (See also Attachment OUCC-2.)

Table 3: OUCC Recommended Calculation of DSIC URT Rate Reduction

			DSIC-12	DSIC-13	Total
11	Total Operating Revenues		\$ 7,568,226	\$ 7,619,221	\$ 15,187,447
	Less: Sale for Resale		-	-	-
12	Retail Operating Revenues		7,568,226	7,619,221	15,187,447
16	Percentage of URT Calculated	CN 45142	1.3841%	1.3841%	1.3841%
15	Retail Revenues -Excluding URT	line 12 x (1- line 16)	7,463,474	7,513,763	14,977,238
17	Utility Receipts Tax in Rates		\$ 103,302	\$ 103,998	\$ 207,300
19	Percent of URT in Rates		1.3600%	1.3600%	1.3600%

WASTEWATER RATES AND CHARGES

A. Town of Sheridan Rates and Charges

Subsequent to the acquisition of the Town of Sheridan wastewater utility, as shown in its 30-day filing, IAWC continues to charge Town of Sheridan customers the wastewater rates in effect on the date of IAWC’s acquisition. The monthly rates charged include a volumetric rate of \$9.14 per 1,000 gallons and a fixed monthly charge based on water meter size.

IAWC calculates a 1.01% reduction to these rates based on its determination of the percentage of URT included in its own base rates as approved in Cause no. 45142 – 1.01%³.

⁴ The removal of URT has no effect on federal income taxes as taxable income remains the same. However, because URT was not deductible for state income tax purposes, the removal of URT reduces the amount of state taxable income and therefore reduces the amount of state income tax that should be recovered in rates.

The Town of Sheridan was unregulated prior to its acquisition by IAWC and, therefore, there is no information available regarding how these rates were determined or how much URT the rates were designed to recover.

The OUCC accepts IAWC’s proposal to apply the same percentage reduction to the Town of Sheridan rates as applied to its base rates as approved in Cause No. 45142. However, the OUCC recommends a 1.36% reduction based on the OUCC’s calculations as presented in Table 1 above.

B. Rivers’ Edge Rates and Charges

Subsequent to the acquisition of Rivers’ Edge wastewater utility, as shown in its 30-day filing, IAWC continues to charge Rivers’ Edge customers the wastewater rates as approved in Cause No. 43115 (Attachment OUCC-5). The monthly rates charged include a volumetric rate of \$7.97 per 1,000 gallons and a campground/mobile home flat rate of \$39.84 per lot. There is no fixed monthly charge.

IAWC calculates a 1.01% reduction to these rates, but its calculation is not based on the amount of URT included in Cause No. 43115. Instead, IAWC’s proposal is based on its determination of the percentage of URT included in its own base rates as approved in Cause No. 45142 – 1.01%³.

The removal of URT has no effect on the amount of federal income tax expense included in rates. However, because URT was not deductible for state income tax purposes, removing URT from the revenue requirement has an impact on state income tax expense.

The OUCC recommends a 1.50% reduction based on the amount of URT included in rates in Cause No. 43115 (Attachment OUCC-6). The total effect of repealing URT, including state and federal income tax impact, is a reduction of \$1,010, which represents 1.50% (\$1,010 / \$67,123) of total operating revenues. This is the percentage these rates should be reduced to reflect the URT repeal.

	Current Rate	IAWC Proposed	OUCC Recommended
Volumetric Rate per 1,000 gallons	\$7.97	\$7.889	\$7.85
Mobile Home /Camp Lot Rate	\$39.84	\$39.44	\$39.24

Comparison of IAWC proposed rate reductions to the OUCC’s recommended rate reductions (see also Attachment OUCC-1):

Description	Rate	IAWC Proposed Reduction	OUCC Recommended Reduction
Water Rates and Charges:			
Area One		-1.55%	-1.36%
Area Two		-1.55%	-1.36%
Area Three (Rivers’ Edge)		-1.01%	-1.37%
Area Four (Town of Lowell)		-1.01%	-1.36%
Customer Charge		No Change	-1.36%
Private Fire Service		-1.01%	-1.36%
Private Fire Hydrant Service		-1.01%	-1.36%
Public Fire Hydrants		-1.00%	-1.36%
Public Fire Protection Surcharge		-1.00%	-1.36%
Distribution System Improvement Charge		-0.80%	-1.36%
Wastewater Rates and Charges:			
Somerset and Delaware County		-1.01%	-1.36%
Town of Sheridan		-1.01%	-1.36%
Rivers’ Edge		-1.01%	-1.50%

For all of the foregoing reasons, the OUCC submits this objection to the 30-day filing and asks the Commission to reject IAWC’s proposed tariff and adopt the rates recommended by the OUCC.

Sincerely,



Margaret A. Stull, Chief Technical Advisor
 Water and Wastewater Division
 Indiana Office of Utility Consumer Counselor Email:
mstull@oucc.in.gov

cc: Greg Shimansky, Director Rates and Regulatory
 Nick Kile, Barnes and Thornburg
 Curt Gassert, Director Water/Wastewater Division, IURC
 Tiffany Murray, Deputy Consumer Counselor, OUCC