

September 21, 2017

INDIANA UTILITY

REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

COMPLAINT OF SUGAR CREEK)	
PACKING CO. FOR REVIEW OF)	
WESTERN WAYNE REGIONAL)	
SEWAGE DISTRICT'S OPERATIONS)	CAUSE NO. 44948
PURSUANT TO IC § 8-1-30(3)(b).)	
)	
RESPONDENT: WESTERN WAYNE)	
REGIONAL SEWAGE DISTRICT)	

**RESPONDENT WESTERN WAYNE REGIONAL SEWER DISTRICT'S
NOTIFICATION OF BID EXPIRATION AND
REQUEST FOR ORDER OF IMMEDIATE PARTY MEDIATION**

COMES NOW, Western Wayne Regional Sewer District (WWRSD), by counsel, and herein files its Notification of Bid Expiration and Request for Order of Immediate Party Mediation and in support states as follows:

1. This matter was initiated on May 25, 2017 as a result of the Complaint filed by Sugar Creek Packing Company.
2. Respondent WWRSD timely responded to the Complaint and raised and contested this Commission's authority and jurisdiction over the rates and operations of WWRSD, but did not contest the ability of this Commission to promptly pursue a review of WWRSD under Ind. Code 8-1-30.
3. At the July 20, 2017 prehearing conference the undersigned counsel for WWRSD made the then presiding officers aware of the need for an expedited schedule to accommodate important project bids that had been received by WWRSD in early May 2017 and were set to expire on October 15, 2017.

4. Balancing the importance of this bid expiration issue and the other parties and the staff's schedules, the bench¹ set this matter for hearing on September 19, 2017.

5. That at about mid-day the day before the September 19, 2017 evidentiary hearing, the parties were notified of an unfortunate medical situation that arose which resulted in the Commission, *sua sponte*, canceling the September 19, 2017 evidentiary hearing.

6. That upon becoming aware of the unfortunate turn of events and the Commission's cancellation of the September 19, 2017 evidentiary hearing, the undersigned counsel for WWRSD promptly raised and alerted the Commission² of the project bid expiration issue which prompted the expedited schedule in the first place.

7. That the parties were requested by the Commission² on September 18, 2017 to confer on dates that they could be available for the reset evidentiary hearing date most of which were in October 2017.

8. That at each opportunity when new hearing dates were raised and proposed, counsel for WWRSD attempted to press for any available dates well in advance of the October 15, 2017 project bid expiration deadline.

9. The presiding officers have not as yet identified the exact date of the rescheduled evidentiary hearing date, but most of the dates discussed are well into the month of October and thus will not allow sufficient time to obtain action from the Commission before the aforementioned construction bids October 15, 2017 expiration.

10. That WWRSD also promptly inquired as to whether the bids could be extended and if so at what cost. The analysis is under way but with both the passage of time and more so

¹ WWRSD notes that former ALJ Aaron A. Schmoll was presiding and has since left the IURC with this matter having at some point been reassigned to ALJ Carol Sparks Drake.

² ALJ David Veleta had been requested to alert the parties and assist with the coordination of possible new dates.

intervening events like Hurricanes Harvey, Irma and Maria there likely is going to be significant costs increases even if an extension can be obtained.

11. That due to both the passage of time and more recently the several natural disasters that have hit the continental United States over the intervening months, the expected impact of losing the aforementioned construction bids likely will be very significant.

12. That these anticipated costs increases will not only impact WWRSD's particular defined project, but will impact any other project which does not currently have locked in bids.

13. That any construction cost increases would be to the detriment of WWRSD's customers and ratepayers - both current and future.

14. That due to the unfortunate and unforeseen turn of events which caused the evidentiary hearing to be delayed, this matter will result in a negative impact on WWRSD, its customers, Wayne County, and the region generally.

15. That one of the parties in this cause suggested, in prefiled testimony, that the Commission order the parties to meet and attempt to work out a solution. Some efforts have been pursued, but more recently the parties resources and focus has shifted to the litigation positions.

16. That as noted throughout its prefiled testimony WWRSD has always attempted to work with its customers and all parties to this proceeding.

17. That WWRSD believes that under these very unfortunate and unique circumstances that Commission ordered formal mediation by a qualified mediator may result in a resolution - and under the present schedule it appears to be the only option, if promptly ordered and pursued, which could result in a solution before WWRSD bids expire and expected costs increases occur.

WHEREFORE, based upon this recent unforeseen turn of events and resulting unfortunate delay, the quickly approaching bid expiration deadline, and the fact that all parties have already had the opportunity to prefile their respective positions and Sugar Creek was able to likewise file its rebuttal, WWRSD respectfully suggests and requests that this situation calls for an immediate order by the presiding officers which directs the parties to immediately schedule and engage in formal mediation in an attempt to determine if a reasonable resolution can be reached in advance of the October 15, 2017 bid expiration deadline.

Respectfully Submitted,

/s/ Keith L. Beall

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Respondent WWRSD Notice of Bid Expiration and Request for Order of Immediate Party Mediation* that was electronically filed with the Indiana Utility Regulatory Commission was also served upon the following counsel of record via electronic service this 21st day of September 2017.

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