

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE MUNCIE SANITARY)
DISTRICT, FOR APPROVAL OF A)
REGULATORY ORDINANCE COVERING) CAUSE NO. 45055
UNINCORPORATED AREAS OF)
DELAWARE COUNTY, INDIANA)

MUNCIE SANITARY DISTRICT'S
MOTION FOR ENLARGEMENT OF TIME TO SUBMIT ITS
PREFILED REBUTTAL TESTIMONY

Comes now the Muncie Sanitary District ("Petitioner"), by counsel, and for its Motion for Enlargement of Time to Submit its Prefiled Rebuttal Testimony states as follows:

1. This Motion is made pursuant to 170 IAC 1-1.1-12(a)(4)(B), 170 IAC 1-1.1-16(b) and 170 IAC 1-1.1-20.
2. Pursuant to the Commission's October 3, 2018, Docket Entry, the Petitioner was to file the testimony and exhibits constituting its Rebuttal Case on or before November 7, 2018.
3. On September 24, 2018, Petitioner served Discovery Requests on Delaware County Regional Wastewater District ("DCRWD") and Liberty Regional Waste District ("Liberty"). Petitioner anticipated it would require the information sought by these Discovery Requests to prepare its Rebuttal Case.
4. The Commission's July 20, 2018, Docket Entry provided that Discovery Responses would be due within ten (10) calendar days. The Responses to the September 24, 2018, Discovery Requests served on DCRWD and Liberty were due on October 4, 2018.
5. On October 15, 2018, Petitioner's counsel sent an email to DCRWD's counsel and to Liberty's counsel requesting the status of their respective Discovery Responses. Neither counsel for the DCRWD nor counsel for Liberty responded to Petitioner's October 15, 2018, emails.

6. On October 22, 2018, Petitioner filed Motions to Compel against DCRWD and Liberty seeking Commission Orders compelling DCRWD's and Liberty's Discovery Responses.
7. On October 22, 2018, after the filing of Petitioner's Motions to Compel, counsel for DCRWD submitted partial Discovery Responses, stating that he would provide additional responses upon receipt of information from his client.
8. On October 23, 2018, Petitioner's counsel sent an email to DCRWD's counsel requesting the status of the additional Discovery Responses. DCRWD's counsel provided one additional document and replied, "I will push client for responses today."
9. As of the filing of this Motion, Petitioner has received neither the additional Discovery Responses nor any further communication from DCRWD.
10. As of the filing of this Motion, Petitioner has received neither any Discovery Responses nor any communication on the matter whatsoever from Liberty.
11. Responses to Petitioner's Motions to Compel were due within ten (10) days pursuant to Commission Rules. Ten (10) day have now past and neither DCRWD nor Liberty has filed a response to Petitioner's Motions to Compel.
12. Based upon the direct cases of DCRWD and Liberty prefiled in this Cause, Petitioner needs the information sought by its September 24, 2018, Discovery Requests to both DCRWD and Liberty to prepare its Rebuttal Case.
13. Even if the long-awaited Discovery Responses were delivered today, Petitioner would not have adequate time to study the Responses and prepare its Rebuttal Case for filing on November 7, 2018.
14. Now knowing this Cause is very unlikely to be settled, having seen DCRWD's and Liberty's cases, and having learned of its witness' scheduling constraints, Petitioner will require

at least thirty (30) days after receipt of substantive Discovery Responses from both DCRWD and Liberty to prepare and file its Rebuttal Case.

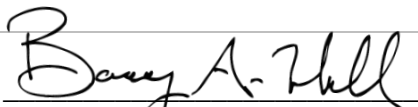
15. Petitioner has already been prejudiced by DCRWD's and Liberty's failure to comply with Discovery in that Petitioner's Rebuttal filing must be delayed, the hearing in this Cause will have to be delayed and the Commission's decision on ultimate relief sought by Petitioner in this Cause will be delayed.

16. Not knowing when Petitioner will receive the outstanding Discovery Responses from DCRWD and Liberty, it is not possible for Petitioner to propose a date certain for the prefiling of its Rebuttal Case.

17. Petitioner suggests the holding of an informal attorney's conference so that the Presiding Officers and Petitioner may hear DCRWD's and Liberty's intentions for complying with Discovery. With that information, a revised prefiling date for Petitioner's Rebuttal Case and a revised evidentiary hearing date in this Cause can be established.

WHEREFORE, Petitioner respectfully requests: the time for the prefiling of its Rebuttal Case be enlarged to a date at least thirty (30) days after the receipt of DCRWD's and Liberty's outstanding Discovery Responses; the hearing schedule be modified as the Commission may find appropriate; and, for all other proper relief.

Respectfully submitted,



Barry A. Hall #34043-71
McKINNEY & MALAPIT LAW
201 N. High Street
Muncie, Indiana 47305
(765) 896-8964
Attorneys for Petitioner

/s/ Mark W. Cooper

Mark W. Cooper
Attorney at Law
1449 N. College Ave.
Indianapolis, IN 46202
(317) 635-8312
Attorneys for Petitioner

Certificate of Service

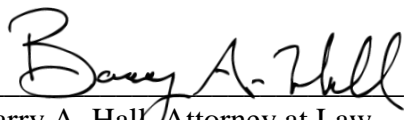
I hereby certify that the foregoing Motion was served upon the following by delivering a copy thereof electronically this 2nd day of November, 2018:

Karol H. Krohn
Deputy Consumer Counselor
Indiana Office of the Utility Consumer Counselor
infomgt@oucc.in.gov
kkrohn@oucc.in.gov

Jeffery A. Earl
Attorney for Delaware County Regional Wastewater District
jeff@lewisandearl.com

Steven D. Murphy
Christopher L. Bills
Defur Voran LLP
Attorneys for Town of Yorktown
smurphy@defur.com
cbills@defur.com

Mark L. Abrell
Brandon Murphy
Attorney for Liberty Regional Waste District
abrellmla@gmail.com
bemurphylaw@gmail.com



Barry A. Hall, Attorney at Law

Barry A. Hall #34043-71
McKINNEY & MALAPIT LAW
114 East Washington Street
Muncie, IN 47305
Phone: (765) 896-8964

Mark W. Cooper
Attorney at Law, No. 4139-49
1449 N. College Ave.
Indianapolis, IN 46202
Phone: (317) 635-8312

Fax: (317) 685-2666

Email: attymcooper@indy.rr.com