STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE MUNCIE SANITARY DISTRICT, )
FOR APPROVAL OF A REGULATORY ORDINANCE )
COVERING UNINCORPORATED AREAS OF )
DELAWARE COUNTY, INDIANA )

CAUSE NO. 45055

OUCC PREFILED TESTIMONY

OF

CARL N. SEALS - PUBLIC'S EXHIBIT NO. 1

ON BEHALF OF THE

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

MAY 25, 2018

Respectfully submitted,

[Signature]

Jesse James
Attorney No. 29071-33
Deputy Consumer Counselor
CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Office of Utility Consumer Counselor’s Prefiled Testimony of Carl N. Seal has been served upon the following counsel of record in the captioned proceeding by electronic service on May 25, 2018.

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TESTIMONY OF CARL N. SEALS
CAUSE NO. 45055
MUNCIE SANITARY DISTRICT

I. INTRODUCTION

Q: Please state your name and business address.
A: My name is Carl N. Seals, and my business address is 115 West Washington Street, Suite 1500 South, Indianapolis, Indiana 46204.

Q: By whom are you employed and in what capacity?
A: I am employed by the Indiana Office of Utility Consumer Counselor (“OUCC”) as a Utility Analyst in the Water/Wastewater Division. My qualifications and experience are set forth in Appendix A.

Q: What is Muncie Sanitary District seeking in its filing?
A: According to the Petition it filed initiating this proceeding, Muncie Sanitary District (hereinafter “MSD” or “Petitioner”) seeks authority “to assume jurisdiction over certain unincorporated areas of Delaware County, Indiana, and for approval of Muncie City Ordinance 2015-16 (“regulatory ordinance”), regulating the provision of sanitary and sewer service to the fullest extent permitted by law,”¹ pursuant to Indiana Code § 8-1.5-6.

Q: What is the purpose of your testimony?
A: I discuss the information gleaned from Petitioner’s filing and data requests,² and I explain that based on the information contained therein, the OUCC has no concerns with Petitioner’s request to extend its territory.

Q: What have you done to prepare your testimony?
A: I reviewed MSD’s Petition and Attachments, certain reports pertaining to the Indiana

¹ Petition in Cause No. 45055, page 1.
² No testimony was filed on behalf of Petitioner or Intervenors in this Cause.
Department of Environmental Management, researched online news articles regarding MSD and issued data request questions to better understand Petitioner’s current operations and pending request. The OUCC’s review did not include any pre-filed direct testimony filed on behalf of Petitioner, as it was not filed before the filing date of OUCC and intervenor testimony. For this matter, the OUCC’s review and recommendation is based on information provided through the discovery process and the documents filed with the Petition initiating this Cause that are specific to the relief requested. The OUCC may review and respond to any prefilled testimony Petitioner may file at a later date.

**Q:** What is required of a Petitioner seeking approval of a regulatory ordinance pursuant to Indiana Code § 8-1.5-6?

**A:** According to Indiana Code § 8-1.5-6-9(c), the petition for this type of request must include the following:

1. A description of the service territory established in the regulatory ordinance.
2. Proposed rates and charges for the services to be provided in the service territory.
3. A list of any administrative or judicial proceedings involving the regulatory ordinance.
4. A list of any utilities actually or potentially affected by the regulatory ordinance.

**Q:** How has MSD satisfied the aforementioned requirements?

**A:** Petitioner filed Exhibit 1 - Ordinance 16-2015, which is a graphical depiction of the service territory established in the regulatory ordinance. Also, in response to OUCC Data Request 1.1 seeking a higher-quality map, Petitioner filed an electronic\(^3\) map of the proposed service area, which appears as Attachment CNS-1. The electronic version of this map can be “zoomed in” on, showing much greater detail than the map appearing in Exhibit 1.

The proposed rates and charges for services to be provided in the service territory

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\(^3\) Portable document format (.pdf).
are discussed on page 4 of the Petition and were confirmed in MSD’s response to OUCC Data Request 1.7. These rates are “those rates that are approved by the Board of Sanitary Commissioners for The MSD by the passage of rate resolutions” and “apply to all services for all customers of The MSD.”

With regard to listing any administrative or judicial proceedings involving the regulatory ordinance, MSD noted in its response to OUCC Data Request 1.11 that “[t]here are no other administrative or judicial proceedings involving Ordinance 16-2015 except for the IURC case 45055.”

Finally, in its Petition, MSD listed Delaware County Regional Wastewater District (“DCRWD”) and Liberty Regional Wastewater District (“LRWD”) as utilities actually or potentially affected by the regulatory ordinance. In response to OUCC Data Request 1.3, MSD added the Town of Yorktown, which has entered into a stipulation agreement with MSD regarding the regulatory ordinance. According to MSD’s response to OUCC Data Request 1.9, MSD currently has treatment agreements with LRWD and DCRWD to treat 100% of their sewage.

Q: What should the Commission consider when evaluating the proposed regulatory ordinance pursuant to Indiana Code §8-1.5-6?

A: According to Indiana Code §8-1.5-6-8(g), the Commission shall consider the following:

1. The ability of another utility to provide service in the regulated territory.
2. The effect of a commission order on customer rates and charges for service provided in the regulated territory.
3. The effect of the commission's order on present and future economic development in

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4 OUCC Data Request 1 is included in its entirety as Attachment CNS-2 for reference.
5 Petition in Cause No. 45055, page 4.
6 See Stipulation Between Muncie Sanitary District and the Town of Yorktown, filed March 26, 2018, in this proceeding (Commission Cause No. 45055).
the regulated territory.

(4) The history of utility service in the regulated territory, including any contracts for utility service entered into by the municipality that adopted the regulatory ordinance and any other municipalities, municipal utilities, or utilities.

(5) Any other factors the commission considers necessary.

Q: **How has MSD supported these considerations?**

A: With regard to the ability of another utility to provide service in the regulated territory,

MSD stated in response to OUCC Data Request 1.6:

None of the effected utilities would be able to provide service to the effected areas for the following reasons:

- LRWD – LRWD does not have a sewage treatment plant. They have a contract with MSD to receive and treat 100% of their sewage.
- DCRWD – DCRWD does not have a sewage treatment plant. They have a contract with MSD to receive and treat 100% of their sewage.
- Yorktown – They do not have the means or the intent to take on any new customers outside of their municipal boundaries.

Regarding the potential impact on customer rates and charges for service provided in the regulated territory, and as I discussed earlier, Petitioner has stated that the rates charged within the regulated territory will be the rates charged to its other customers.

As previously noted, MSD’s history includes the provision of sewage treatment to both DCRWD and LRWD. MSD’s Petition further states that MSD was created by the Common Council of Muncie in Muncie City Ordinance 50.01 in 1968, and currently serves all customers within the corporate boundaries of the City of Muncie, Delaware County, Indiana.

**II. RECOMMENDATION**

Q: **What the OUCC’s recommendation?**

A: The OUCC recommends the Commission approve MSD’s request for approval of its regulatory ordinance.
Q: Does this conclude your testimony?
A: Yes.
III. APPENDIX A: QUALIFICATIONS

Q: Please describe your educational background and experience.

A: In 1981 I graduated from Purdue University, where I received a Bachelor of Science degree in Industrial Management with a minor in Engineering. I was recruited by the Union Pacific Railroad, where I served as mechanical and maintenance supervisor and industrial engineer in both local and corporate settings. I then served as Industrial Engineer for a molded-rubber parts manufacturer before joining the Indiana Utility Regulatory Commission (“Commission”) as Engineer, Supervisor and Analyst for more than ten years. It was during my tenure at the Commission that I received my Master of Health Administration degree from Indiana University. I then worked at Indiana-American Water Company in its rates department. I was then assigned to managing Indiana-American’s Shelbyville operations for eight years. Thereafter, I was hired by Veolia Water, where I served as Director of Regulatory Compliance and Contract Management for Veolia Water Indianapolis. I joined Citizens Energy Group as Rate & Regulatory Analyst following the October 2011 transfer of the Indianapolis water utility and joined the Office of Utility Consumer Counselor in April of 2016.
AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.

By: Carl N. Seals
Cause No. 45055
Indiana Office of
Utility Consumer Counselor

Date: May 25, 2018