

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF HAMMOND WATER WORKS ) CAUSE NO. 45026  
DEPARTMENT FOR AUTHORITY TO ISSUE )  
BONDS, NOTES OR OTHER OBLIGATIONS ) APPROVED: APR 11 2018

ORDER OF THE COMMISSION

**Presiding Officers:**

**Angela Rapp Weber, Commissioner**

**Lora L. Manion, Administrative Law Judge**

On December 15, 2017, Hammond Water Works Department ("Petitioner") filed its petition with the Indiana Utility Regulatory Commission ("Commission"), seeking authority to issue long-term debt for purposes of providing adequate and efficient utility service. On December 18 and 19, 2017, Petitioner prefiled testimony and exhibits constituting its case-in-chief. On February 22, 2018, the Indiana Office of Utility Consumer Counselor ("OUCC") notified the Commission of its intent not to prefile testimony.

An evidentiary hearing was held on March 22, 2018, at 9:30 a.m. in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, Petitioner and the OUCC appeared by counsel. Petitioner offered its prefiled testimony and exhibits, which were admitted into evidence without objection.

Based on the applicable law and evidence the Commission now finds:

1. **Notice and Jurisdiction.** Due, legal, and timely notice of these proceedings was given and published as required by law. Petitioner is a municipally owned utility according to Ind. Code § 8-1-2-1(h) and is subject to the jurisdiction of the Commission as provided by the laws of the State of Indiana. Petitioner seeks the approval of long-term financing, which is governed by Ind. Code § 8-1.5-2-19. Therefore, this Commission has jurisdiction over Petitioner and the subject matter of this Cause.

2. **Petitioner's Characteristics.** Petitioner owns, operates, manages, and controls plant, property, equipment, and facilities that are used for the collection, purification, pumping, distribution, and furnishing of potable water to customers in Lake County and the City of Hammond, Indiana. Petitioner and the City of Hammond also provide potable water to other communities in Indiana and Illinois on a wholesale basis.

3. **Relief Requested.** Petitioner seeks authority to issue long-term debt financed by The Hammond Local Public Improvement Bond Bank (the "Bond Bank") in an amount up to \$7,500,000 for a period of time no greater than 15 years and at an average interest rate of 5.00% or less. The funds are needed to finance necessary electrical upgrades at Petitioner's Filtration Plant ("HWWF Filtration Plant"), to cover related bond issuance costs, and to reimburse painting costs for one of Petitioner's water tanks.

#### **4. Evidence of the Parties.**

**A. Petitioner's Case-in-Chief.** Petitioner's case-in-chief consisted of the testimony and exhibits of its witnesses Mr. Edward Krusa and Mr. Karl Cender. Mr. Krusa is the Chief Executive Operator for Petitioner and has worked for Petitioner for 12 years. Prior to serving as the Chief Executive Operator for Petitioner, he was President of the Board for Petitioner for three years. Mr. Cender is a Certified Public Accountant and sole owner of Cender & Company.

Mr. Krusa described Petitioner's capital improvement project, which will replace the electrical equipment in the HWWD Filtration Plant. He testified that the current electrical equipment at Petitioner's plant is functional, but the equipment at the high service pump station has been in service since the 1950s and the equipment at Plant No. 2 has been in service since the 1970s. While there was an electrical modernization project at the HWWD Filtration Plant in 1982 and the existing electrical equipment is functional, the electrical equipment is approaching or has reached the end of its design life. The equipment has become increasingly difficult to maintain due to the lack of availability of replacement parts. Mr. Krusa testified that when the electrical equipment failed in the past, Petitioner experienced interruptions in its production of potable water. He testified that unless Petitioner replaces the functioning but obsolete equipment with new serviceable replacement equipment, Petitioner would invite a major outage. Mr. Krusa said that equipment failure forces Petitioner to make decisions for replacement and repair under duress and increases replacement costs due to rush orders. Mr. Krusa stated Petitioner needs to avoid those costly and emergency circumstances, replace equipment with the least amount of disruption to operations, make improvements, and thereby meet service goals for the next 20 to 25 years.

Mr. Krusa testified that Petitioner first contracted with CDM Smith Engineering in April 2014 for an evaluation of the HWWD Filtration Plant's electrical equipment, recommendations for upgrades, and an electrical upgrade design. He provided a copy of CDM Smith Engineering's Electrical Improvements Project Preliminary Design Report. Pet. Ex. 1, Attach. EK-2. In the report, CDM Smith Engineering gave multiple alternative electrical system concepts for review and provided a managed design approach for the complete replacement of each major piece of equipment at the HWWD Filtration Plant. CDM Smith Engineering ultimately recommended an option with flexibility in construction phasing and a robust metal clad switchgear construction. It further recommended a single-engine generator to modify the standby power system at capacity to run the HWWD Filtration Plant at half the cost of a natural gas engine generator alternative.

Mr. Krusa testified that Petitioner advertised for bids in 2016 to complete the work and received four bids between \$4.97 million and \$7.55 million. After review and evaluation of the bids, CDM Smith Engineering recommended accepting Hammond-based Meade Industries as the lowest responsive and responsible bidder. CDM Smith Engineering found that Meade Industries possessed the capacity and skill to complete the project, complied with bidding requirements, and provided a bid for less than CDM Smith Engineering's opinion of the probable construction cost. Mr. Krusa stated that Petitioner entered into a contract with Meade Industries and provided that contract as Pet. Ex. 1, Attach. EK-3. He further stated that Petitioner entered into a construction management agreement with CDM Smith Engineering, provided as Pet. Ex. 1, Attach. EK-4, in

an amount not to exceed \$300,000 over a three-year term. Mr. Krusa testified that work on the project has begun.

Mr. Krusa explained that Petitioner estimated the electrical improvements would cost \$7,300,000 but sought \$7,500,000 in financing to address variations in the actual cost of the work. He identified the component expenditures, including payments to Meade Industries, CDM Smith Engineering, LC United Painting as reimbursement for tank-painting costs, and bond issuance costs. He also detailed the specific electrical equipment to be replaced as part of the project and identified equipment that will be retained. Mr. Krusa testified that the HWWD Filtration Plant will be able to operate during the upgrade and that construction would occur in phases, with the objective of maintaining HWWD Filtration Plant operations and avoiding shutdowns during periods of peak flow. Mr. Krusa noted that some non-electrical improvements will also be performed as part of the project.

Mr. Krusa stated that the planned upgrades are reasonable and necessary and would enable Petitioner to provide more reliable service to its customers.

Mr. Cender provided his analysis and review of Petitioner's proposed debt issuance of \$7,500,000 to complete its necessary electrical upgrade project. He said his firm was retained to advise on financing options for the electrical upgrade project.

Mr. Cender testified that Petitioner will obtain financing for the project through the Bond Bank. Mr. Cender said he believes that the total amount of financing necessary is \$7,500,000, calculated as follows: \$4,970,000 to Meade Industries for the project; \$863,000 to reimburse the engineering expense paid to CDM Smith Engineering; \$300,000 for the construction management by CDM Smith Engineering; reimbursement for tank painting in the amount of \$550,000; bond issuance costs of \$315,000; and contingency costs of \$502,000. Mr. Cender testified that the contingency amount is 10% of the bid costs, rounded up by \$5,000.

Mr. Cender further testified that the Petitioner does not seek a rate increase and does not intend to levy a tax to pay principal or interest. Rather, Petitioner is pledging net operating revenues for payment of the debt. Mr. Cender testified that Petitioner does not have other outstanding debt.

Mr. Cender provided the Commission with specific financial statements as Pet. Ex. 2, Attach. KC-1, including the Statement of Revenues, Expenses, and Other Changes in Fund Net Assets; Schedule of Net Revenues, Debt Service on Proposed Bonds and Coverage; Schedule of Cash Flow, Debt Service on Proposed Revenue Bonds and Coverage; and Preliminary Bond Debt Service Schedule. Mr. Cender also provided as Pet. Ex. 2, Attach. KC-2 the proposed terms of the bonds.

Additionally, Mr. Cender testified that the loan sought would be amortized semi-annually over 15 years and the assumed interest rate is 5.00%. However, the interest rate is subject to change due to fluctuations in the municipal bond open market, and the final interest rate will be unknown until the closing of the loan occurs. Nevertheless, Mr. Cender anticipates that the net interest rate will be 4.50% or less.

Mr. Cender testified that Petitioner has the ability to service the debt requested and that the proposed electrical upgrades, reimbursements, and other expenses subject to financing are prudent and in the best interests of customers. He said the upgrades are critically necessary to ensure Petitioner's ability to provide safe drinking water without interruption. Mr. Cender concluded by testifying that time was of the essence to make timely payments to the contractor.

**B. OUCC's Case-in-Chief.** On February 22, 2018, the OUCC notified the Commission of its intent not to prefile testimony in this Cause.

**5. Commission Discussion and Findings.** Petitioner requests approval to issue long-term debt financed by the Bond Bank in an amount up to \$7,500,000 for no greater than 15 years and at an average interest rate of 5.00% or less, including a 10% contingency. Petitioner will use the long-term debt to fund electrical improvements at the HWWF Filtration Plant, to cover related bond issuance costs, and to reimburse painting costs for one of Petitioner's water tanks. Petitioner will not raise rates to pay for the debt but will instead use operating revenues.

Ind. Code § 8-1.5-2-19 provides that a municipality cannot issue debt that is payable more than 12 months after its execution without approval of the Commission. The municipal utility's rates must also be sufficient to fund operation, maintenance, and depreciation expenses and to pay the principal and interest on the bonds with a surplus or margin of at least 10%.

According to the evidence, the electrical upgrades will replace obsolete equipment with new serviceable replacement equipment, allowing Petitioner to avoid a major outage. These upgrades will be completed without raising customers' rates. Petitioner also offered evidence from an independent accountant describing the terms of the bond issuance that exceeds 12 months and Petitioner's financial ability to service the debt, including the operation, maintenance, and depreciation expenses; the principal and interest of the bond issuance; and a 10% surplus amount. The OUCC did not oppose any portion of Petitioner's request or file testimony to express any concerns. The Commission thus finds that Petitioner's proposed bond issuance is in the public interest and approved.

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

1. Petitioner is granted a Certificate of Authority to issue long-term debt not to exceed \$7,500,000 for a period of years not to exceed 15 years and at an average interest rate not to exceed 5.00%. This Order shall be the sole evidence of Petitioner's Certificate of Authority.

2. In accordance with Ind. Code § 8-1-2-85, Petitioner shall pay a fee equal to \$0.25 for each \$100 of bonds issued, making payment to the Secretary of the Commission within 30 days of the receipt of the financing proceeds authorized in this Order.

3. In accordance with Ind. Code § 8-1-2-70, Petitioner shall pay, within 20 days from the date of this Order, the following itemized charges, as well as any additional charges which were or may be incurred in connection with this Cause:


IURC Charges:	\$ 625.42
OUCC Charges:	\$1,303.85
Legal Advertising Charges:	\$ <u>56.67</u>
Total:	\$1,985.94

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

**HUSTON, FREEMAN, OBER, WEBER, AND ZIEGNER CONCUR:**

**APPROVED: APR 11 2018**

**I hereby certify that the above is a true  
and correct copy of the Order as approved.**

  
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**Mary M. Becerra**  
**Secretary of the Commission**