

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF)
BROWN COUNTY WATER UTILITY, INC.,)
OF MORGANTOWN, INDIANA)
FOR APPROVAL OF (1) THE)
ISSUANCE OF LONG TERM)
BONDS, NOTES OR OTHER EVIDENCE)
OF INDEBTEDNESS, (2) FOR AUTHORITY)
TO ENCUMBER ITS FRANCHISE, WORKS)
AND SYSTEM IN CONNECTION WITH)
SUCH BORROWING, (3) FOR A)
CERTIFICATE OF AUTHORITY TO ISSUE)
LONG TERM DEBT, (4) FOR AUTHORITY)
TO INCREASE ITS RATES AND CHARGES)
FOR WATER SERVICE, (5) FOR APPROVAL)
OF A NEW SCHEDULE OF RATES AND)
CHARGES FOR WATER SERVICE,)

IURC
JOINT
EXHIBIT No. 1
9-28-22
DATE REPORTER

CAUSE NO: 45720

STIPULATION AND SETTLEMENT AGREEMENT

Brown County Water Utility, Inc. ("Petitioner") and the Indiana Office of Utility Consumer Counselor ("OUCC"), being all of the parties to this Cause (collectively called the "Parties"), Stipulate and Agree for the purposes of resolving the issues in this Cause according to the terms and conditions set forth below (which terms and conditions are collectively referred to herein as the "Settlement").

A. Petitioner's Financing.

1. Petitioner's Capital Improvement Projects. Petitioner proposes to install and implement Capital Improvement Projects ("CIP"), which are described as follows:

CIP Description and Estimated Cost Summary

New Well	\$125,000
Carmel System Water Transmission Main Replacement	765,980
Wild Cherry Lane Water Main Replacement	62,200
Morgantown/Indiana Creek Water Main Replacement	91,160
SR 135 Water Main Replacement South of Morgantown	164,000
Grandview Road Water Main Replacement	33,820
E. Christiansburg Rd. Water Main Replacement	330,000
Service Line Replacements	840,000
Spurgeon's Booster Station Rehabilitation	105,000
SCADA Upgrades	330,000
Maintenance Building with Water Fill Station	660,000
Office Facility Improvements	155,000
New Meter Reading Equipment	30,000
Estimated Construction Cost	<u><u>\$3,692,160</u></u>
<i>Construction Contingency</i>	<i>568,000</i>
<i>Additional Contingency</i>	<i>877,840</i>
<i>Non-Construction Costs (See Below)</i>	<i>862,000</i>
Probable Total Project Cost	<u><u>\$6,000,000</u></u>

Non-Construction Costs

Engineering Design, Bidding, Contract Administration	\$365,000
Asset Management Planning	50,000
Bond Counsel	40,000
Rate Consultant - Funding	40,000
Rate Consultant - IURC Rate Case*	40,000
SRF Closing Fees	15,000
Labor Standards	12,000
Preliminary Engineering Report	30,000
Legal	100,000
Easements	50,000
Environmental - Arch Study	10,000
Construction Observation	110,000
Total Non-Construction Cost	<u><u>\$862,000</u></u>

The Parties stipulate and agree the CIP is necessary for Petitioner to provide reasonably adequate service. The Parties also stipulate and agree that the Petitioner does not have the funds on hand to pay for the CIP and the proposed borrowing is a reasonable method to fund the CIP.

The Parties recognize and agree that in this period of inflationary pressure, Petitioner requires "Additional Contingency" as agreed above. Therefore, the Parties stipulate and agree that total expenditures for the CIP are not to exceed \$6,000,000. The Parties also stipulate and agree that Petitioner will prioritize CIP components and may revise or delete certain CIP components, so as to limit total CIP expenditures to \$6,000,000.

2. Compliance with IC 8-1-4-1. The Parties stipulate and agree that the total amount of borrowing, including previous debt, does not exceed the fair value of Petitioner's utility plant (including proposed additions in this Cause).

3. Borrowing Authorization. The Parties stipulate and agree that Petitioner's long-term borrowing will consist of two (2) bond issuances, one issuance with a Twenty (20) Year Term and the other with a Thirty-Five (35) Year Term. The Parties stipulate and agree that Petitioner shall be authorized to engage in long term borrowing, which is comprised of two (2) bond issuances, not to exceed \$6,000,000 in aggregate principal amount, at an interest rate not to exceed Eight (8) percent, and, to issue and execute all necessary documents related thereto. The Parties stipulate and agree that the purpose of the authorized borrowing is to fund: the Construction, Construction Contingency, and Non-Construction costs of Petitioner's CIP, and any related CIP costs, all not to exceed \$6,000,000, as set forth above. The Parties further stipulate and agree that Petitioner shall be authorized to encumber its utility franchise, works and system in conjunction with the authorized borrowing and, to issue and execute documents related thereto. Finally, the Parties stipulate and agree that Petitioner shall be issued a certificate of

authority to issue the long-term debt as described herein. The Commission Order in this Cause will be the sole evidence of Petitioner's certificate of borrowing authority.

4. Additional Debt Related Agreements. Petitioner agrees any borrowing authority approved by the Commission will expire two years from the date of the Commission's Order approving such borrowing. The Parties agree that Petitioner may begin collecting the new rates in its next billing cycle after a Commission Order in this Cause approving new rates. In the first two months after Petitioner receives borrowing approval and it begins collecting the new rates, Petitioner may use the amounts collected in rates, designated to pay debt service and fund debt service reserve requirements, up to an amount of \$50,764, as it deems necessary. If there is a delay greater than two months in issuing the bonds after Petitioner begins collecting the new rates under an Order in this Cause, the amounts collected in rates, designated to pay debt service and fund debt service reserve requirements, will be placed into a restricted account, which will be used to reduce debt. If Petitioner does not issue the bonds within a year of receiving borrowing authority and collecting the new rates, Petitioner agrees to issue a rebate back to ratepayers of all funds in the restricted account.

Petitioner further agrees that if at any time Petitioner makes withdrawals from its debt service reserve account(s) for any purpose other than final debt payment(s), it will report on any access of the restricted account to the Commission and the OUCC within fourteen (14) days of the event.

5. Report of Borrowing and True-Up Procedure. The Parties acknowledge that the actual amount of Petitioner's debt issuance, interest rate, issuance costs, annual debt service and the required debt service reserve will not be known until Petitioner accomplishes its financing. Because the amounts of these several variables pertinent to Petitioner's proposed financing set

forth in Petitioner's evidence are necessarily estimates, a reconciliation, or true-up, is required after the financing is accomplished and the relevant amounts are known with certainty. In recognition of this uncertainty, the Parties stipulate and agree to the following procedure to be operative after the completion of Petitioner's long-term debt issuance:

Petitioner shall file a report of its borrowing ("True-Up Report") with the Commission, serving a copy on the OUCC, within thirty (30) days after the final completion of each financing, or both if issued simultaneously, of Petitioner's long-term debt issuances. The True-Up Report should set forth the actual principal amount of Petitioner's debt issuances, the interest rate, the actual non-construction cost, the average annual debt service requirement, the amount of any required debt service reserve and the impact of any differences between the actual debt issuances results and the debt service estimates (including debt service reserve) will have on Petitioner's rates and charges or its tariff. In the event any differences would require a modification to Petitioner's rates and charges (either an increase or a decrease), along with its True-Up Report Petitioner shall file an amended tariff implementing that modification, or modifications. Within twenty (20) days of the filing of Petitioner's True-Up Report, the OUCC may file an objection to the True-Up Report, setting forth the basis of the objection.

In the event of an objection, either Party may request a hearing and seek to re-open the record in this Cause. The hearing should be limited to the issue of the appropriate modification to Petitioner's rates and charges based upon the actual results of Petitioner's debt issuances set forth in Petitioner's True-Up Report.

In the event both the OUCC and Petitioner agree that the True-Up modification of rates and charges need not take place due to the lack of materiality of the difference or otherwise, the True-Up rate modification need not take place if both Parties waive the requirement through a

writing filed with the Commission in this Cause. In the event that a True-Up modification to Petitioner's rates and charges is done, the amended tariff reflecting the True-Up modification will become effective, and apply to consumption, at the start of the first billing cycle following its approval by the Commission's Water/Wastewater Division.

B. Petitioner's Rate Increase.

1. Petitioner's Test Year Operating Revenue. The Parties stipulate and agree that Petitioner's adjusted test year operating revenue at present rates is \$3,939,401.

2. Petitioner's Revenue Requirement. The Parties stipulate and agree that Petitioner's adjusted *pro forma* revenue requirement is \$4,205,529, and is calculated as follows:

Operating Expenses	\$ 2,564,171
Extensions and Replacements	435,480
Additional Maintenance Reserve	171,072
Working Capital	4,525
Debt Service	957,503
Debt Service Reserve	<u>77,670</u>
Total Revenue Requirements	4,210,421
Less: Interest Income	(542)
Other Income	<u>(4,350)</u>
Net Revenue Requirement	4,205,529
Less: Rev @ current rates sub to inc	(3,865,993)
Other revenues at current rates	(73,408)
Net Revenue Increase Required	266,128
Add: Additional IURC Fees	<u>340</u>
Recommended Increase	<u>\$ 266,468</u>
Percentage Increase	6.89%

3. Petitioner's Authorized Rates. The Parties stipulate and agree that Petitioner's current rates and charges which provide annual adjusted revenues of \$3,939,401 are insufficient to satisfy Petitioner's annual *pro forma* adjusted revenue requirement of \$4,205,529 and Petitioner's current rates are, therefore, unjust and unreasonable. The Parties further stipulate and agree that Petitioner shall be authorized to increase its rates and charges for water service, across-the-board, so as to produce annual revenues of \$4,205,529, and additional funds of \$340 for Additional IURC Fees, which is an increase of \$266,468, over annual adjusted present rate revenues of \$3,939,401.

C. Other Agreements of the Parties. The Parties stipulate and agree as follows:

1. Upon issuance of an Order in this Cause, the requirements of an additional \$50,000 of E&R per calendar year to fund and maintain a restricted E&R account as ordered by the Commission's March 26, 2021, Docket Entry in Cause No. 45210, are no longer required. The Parties agree Petitioner is no longer required to fund and maintain the restricted E&R account. The Parties further agree any funds currently in the restricted E&R account are released to be used for the payment of Petitioner's required contributions to future customer requested main extension costs.

2. Petitioner shall institute a water loss program and a valve maintenance program.

3. Petitioner shall follow the Commission's Main Extension Rule and complete the IURC Annual Report correctly to reflect all extensions.

4. Petitioner shall continue to maintain, fund, and report on; the dedicated restricted accounts for both Storage Tank Inspection and Maintenance, and Well and Well Pump Maintenance as directed by, and according to the terms set forth in, Finding Paragraph 10, C of the Commission's January 2, 2020, Order in Cause No. 45210 at pages 19-20.

D. The Settlement and Use of the Settlement.

1. The Settlement. The Parties shall support this Settlement before the Commission and request that the Commission expeditiously accept and approve the Settlement. If the Settlement is not approved by the Commission without amendment, the Parties agree that the terms thereof shall not be admissible in evidence or in any way discussed in any proceeding. Further, the concurrence of the Parties with the terms of the Settlement is expressly predicated upon the Commission's approval of the Settlement without amendment. If the Commission alters the Settlement in any material way or imposes any additional obligations on Petitioner, the Settlement shall be deemed withdrawn unless that alteration is unanimously consented to by the Parties in writing. If the Settlement is withdrawn, an informal attorneys' conference will be promptly requested wherein a procedural schedule will be fixed for the processing of the balance of this Cause. The Parties expressly reserve all of their rights, including the right to present any appropriate evidence, in the event this Cause is required to be litigated.

The Petitioner has prefiled its direct testimony and the Parties have prefiled testimony in support of this Settlement, all of which shall be offered into evidence without objection and the Parties hereby waive cross-examination. The Parties agree that Petitioner's evidence and the evidence in support of this Settlement constitutes substantial evidence to support this Settlement and provides an adequate evidentiary basis upon which the Commission can make any findings of fact or conclusions of law necessary for the approval of this Settlement, as filed. The Parties shall prepare and file an agreed proposed order with the Commission as soon as possible after the hearing in this Cause.

2. Use of the Settlement. If the Settlement is approved by the Commission the Parties agree that the terms of the Settlement are intended to represent a resolution by compromise of the

issues in this Cause. The Parties further agree that the provisions of the Settlement may never be deemed an admission by any of the Parties, may never be used as substantive precedent in future Commission proceedings and may never be used against any of the Parties in subsequent regulatory or other Commission proceedings, except to the extent necessary to enforce the Settlement.

The Parties stipulate and agree that the Settlement is solely the result of compromise in the settlement process and, except as provided herein, is without prejudice to and shall not constitute a waiver of any position that either of the Parties may take with respect to any issue or item whether or not resolved herein, in any future regulatory or other proceeding.

E. Authority to Execute.

The undersigned have represented and agreed that they are fully authorized to execute this Stipulation and Settlement Agreement on behalf of the designated Parties who will be bound thereby.

Brown County Water Utility, Inc.

By: Ben Phillips
Ben Phillips, Petitioner's Board President

Date: August 22, 2022

ATTEST:

By: Roger Hickey
Roger Hickey, Petitioner's Secretary

Date: August 22, 2022

Indiana Office of Utility Consumer
Counselor

By: 
Kelly Earls, Deputy Consumer Counselor

Date: Aug. 22, 2022