ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

SANI TECH, INC. APPLICATION FOR SMALL UTILITY RATE CHANGE	)))	CAUSE NO. 43793 U
		APPROVED: SEP 08 2010

<u>BY THE COMMISSION</u>:
James D. Atterholt, Commissioner
Angela Rapp Weber, Administrative Law Judge

On September 24, 2009, Sani Tech, Inc. ("Sani Tech" or "Applicant") filed an Application for a rate change utilizing the small utility filing procedure pursuant to 170 IAC 14-1 *et seq*. The Indiana Utility Regulatory Commission ("Commission") reviewed Sani Tech's Application, and on October 15, 2009 issued a memorandum finding the Application incomplete. On November 9, 2010, Sani Tech filed a response to the Commission's memorandum, which included the documents the Commission identified as missing from the initial Application. The following day, on November 10, 2010, the Commission issued a memorandum that Sani Tech's Application was complete.

On December 1, 2009, the Indiana Office of Utility Consumer Counselor ("OUCC") filed a request for a public field hearing pursuant to Ind. Code § 8-1-2-61.5. Pursuant to notice published as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, a public field hearing occurred at 6:00 PM on January 25, 2010 at Neil Armstrong Elementary School, 1000 State Road 144, Mooresville, Indiana. Representatives of the OUCC, Sani Tech and the Commission were present. Several of Sani Tech's customers were also present and provided both oral and written testimony. On February 8, 2010, the OUCC filed its Report. On February 23, 2010, Sani Tech filed a letter stating that it intended to respond to the OUCC's Report. On March 30, 2010, Sani Tech filed its Reply to the OUCC's Report.

1. **<u>Notice and Jurisdiction</u>.** Due, legal, and timely notice of Applicant's requested rate increase was given and published as required by law. Applicant's evidence indicates that Applicant provided to each of its customers a notice of the filing of its Application for rate change as required by 170 IAC 14-1-2. Applicant is a public utility as defined by Ind. Code § 8-1-2-1 and a small utility as defined by 170 IAC 14-1-1. The Commission has jurisdiction over the Applicant and the subject matter of this Cause.

2. **<u>Applicant's Characteristics</u>.** Applicant is an investor-owned public utility that provides sewage disposal service to 114 customers located three miles east of Mooresville in Morgan County, Indiana. Applicant's provision of sewage disposal services is authorized by Certificate of Territorial Authority No. 145 issued by the Commission in Cause No. 39695. Applicant owns a Class I 20,000 gallons per day extended aeration treatment plant located in the Rolling Vista Estates subdivision. The collection system consists of two lift stations and a master lift station; 7,125 feet of collection mains; and 1,622 feet of force main. The treatment

plant disposes of its sludge at the Indianapolis Belmont Plant. Applicant's certified operator, Ed Ferguson, is employed by Utility Services, Inc. of Pittsboro. Applicant's president and primary shareholder, Jon Handy, performs some operating activities, as well as maintenance and replacement work. Applicant also receives service from an affiliate, JDH Engineering, Inc. ("JDH Engineering"), through a Contract for Utility Management Services.

3. **Test Year.** The test year for determining Applicant's current revenues and expenses incurred in providing service to the public is the twelve-month period ended December 31, 2008. The Commission finds the test year is sufficiently representative of Applicant's normal operations to provide reliable data for ratemaking purposes.

4. **Relief Requested.** Applicant initially requested approval of an across-the-board rate increase of 27.14% or $25,859, which would result in a flat $89 monthly charge per single-family dwelling. The OUCC responded to the Application and recommended a 1.85% across-the-board rate decrease, or $1,762, resulting in a flat monthly rate of $68.71. In its Reply, Applicant accepted certain OUCC recommendations and requested a revenue increase of 16.05%, or $15,293, which would result in a flat $81.24 monthly charge per single-family dwelling.

5. **Customer Complaints of Odor and Noise.** At the field hearing in this matter, nine of the twenty people in attendance advised the Commission that they considered there to be excessive odors coming from the sewage treatment plant. To reduce sludge removal expenses, Applicant lengthened the amount of time between aerations. However, Applicant realized this resulted in odor problems and has discontinued this practice. In its Reply, Applicant stated that it is considering two solutions to address its odor problems, which would increase Applicant's expenses. Applicant continues to monitor and develop a cost-effective process for removing the sludge, but that homeowners who have built homes near the plant may continue to detect some odor from time to time.

Two people at the field hearing also spoke of a noise problem from an alarm that has been triggered at one of the lift stations. In its Reply, Applicant stated that it believes a customer has illegally connected a sump pump to the sewer system, and the higher flow triggered the alarm at the lift station. Applicant explained it is currently working to identify the source of the additional flow and resolve the issue.

The OUCC stated that it believes Sani Tech is monitoring its odor problem and adjusting its operation to avoid unnecessary odors. However, the OUCC recommended that Applicant be required to file a report of all noise and odor complaints and a description of what steps were taken to resolve the issues. To ensure that Applicant continues to adequately monitor these problems, the Commission finds that Applicant will include with its Annual Report a report of all noise and odor complaints and describe what steps were taken to resolve the cause of the complaints.

6. **Annual Revenue Requirements.** The OUCC and Applicant agreed to certain *pro forma* accounting adjustments. Specifically, the OUCC accepted Applicant's *pro forma* operating revenues, *pro forma* adjustment to amortize AA Septic Service expenses, *pro forma* utility receipts tax calculation, a 9.646% rate of return and various other test year operating

expenses for which no adjustment was necessary. The OUCC proposed several adjustments in its Report, and Applicant accepted in its Reply the OUCC's adjustment for the use of a five-year amortization period for rate case expenses, the Commission Fee, the property tax expense and the state income tax rate of 8.5%.

However, Applicant and the OUCC disagreed concerning Applicant's rate base, working capital, cost of management services, and depreciation. The remainder of this Order focuses on these disputed adjustments.

A. ***Rate Base.*** Applicant and the OUCC disagreed as to the value of Applicant's rate base. In its Reply, Applicant proposed a rate base of $175,485. The OUCC proposed a rate base of $158,194. The reason for the difference in the proposed rate base is because Applicant and the OUCC could not agree upon the appropriate amount for Applicant's accumulated depreciation and working capital.

With respect to accumulated depreciation, the disagreement in this Cause centers on the interpretation of a Settlement Agreement reached by the OUCC and Applicant in Cause No. 41644, Applicant's most recent rate case. The Commission approved the Settlement Agreement pursuant to an Order dated May 29, 2002. Specifically, the Settlement Agreement states, "Sani Tech's total utility plant as it exists at the time this Settlement Agreement is executed has a fair value of $95,000 for the ratemaking purpose of the [Commission] computing allowable net operating income. The parties stipulate and agree that in all future [Commission] proceedings they are bound to accept $95,000 as the fair value of all the utility plant Sani Tech has as of the date of this settlement agreement."

Applicant stated that depreciation should not be applied to the $95,000 fair value of its utility plant. Applicant explained that the Settlement Agreement in Cause No. 41644 did not indicate that the fair value of the utility plant should be depreciated in the future. The OUCC stated that the $95,000 consists of Applicant's utility plant in service ("UPIS") as of the date of the Settlement Agreement, and UPIS is always depreciated when calculating rate base. The OUCC included in its Report values for UPIS and accumulated depreciation pre-settlement and post-settlement. According to the OUCC's Report, Applicant's plant additions after December 31, 2001 totaled $82,507.

The Commission agrees with the OUCC that as a general utility ratemaking principle, utility plant is depreciated. If the $95,000 in utility plant were never depreciated, shareholders would continue to earn a return on utility assets even after they were retired, which would not be in the public interest. The Settlement Agreement simply identifies the $95,000 as the "total utility plant as it exists at the time of the Settlement Agreement," which is the UPIS prior to December 31, 2001. Therefore, the Commission finds that the $95,000 referred to in Cause No. 41644 should be depreciated, as well as the additions made to utility plant after December 31, 2001, in determining the value of the utility plant to include in rate base.

Based on the foregoing explanation of Cause No. 41644, the Commission finds the value of Applicant's plant for purposes of computing net operating income to be $177,507 ($95,000 + $82,507) as of December 31, 2008. Applicant used accelerated depreciation rates on some of its plant items. However, in its Reply, Applicant acknowledged the 2.5% Commission-approved composite depreciation rate for sewer utilities with a treatment plant is correct. Based on the evidence presented, the Commission finds the composite depreciation rate is 2.5%. Thus, Applicant's accumulated depreciation on its UPIS as of December 31, 2001 is $16,625, and Applicant's accumulated depreciation on $82,507 in UPIS additions after December 31, 2001 is $9,648. The total accumulated depreciation is $26,273.

Applicant originally proposed a working capital figure of $7,317 based on 2008 Operation and Maintenance ("O&M") expenses of $65,791. The OUCC calculated working capital of $6,960 based on *pro forma* present O&M expenses of $62,933. In its Reply to the OUCC's Report, Applicant calculated a revised working capital of $7,626 based on *pro forma* present O&M of $68,263. The difference in calculations for O&M and working capital is based on a disagreement regarding Applicant's management service fee paid to JDH Engineering. As discussed below, the Commission agrees with the OUCC's position to not increase the management service fee, and therefore, with the OUCC's calculation for O&M and working capital. The Commission finds that *pro forma* present O&M expenses are $62,933 and working capital is $6,960.

Based on the evidence presented, Applicant's rate base is $158,194 as illustrated in the following table:

Summary of Rate Base	
UPIS as of 12/31/01	$ 95,000
UPIS Added	82,507
Sub-Total	177,507
Less: Accum. Depreciation on 12/31/01 Plant	16,625
Accum. Depreciation on Remaining Plant	9,648
Sub-Total	151,234
Add: Material and Supplies	-
Working Capital	6,960
Total Rate Base	$ 158,194

B. ***Cost of Management Services.*** Applicant proposed to increase its management fee from $18,000 to $24,650, or by 36.9%, to account for increased costs associated with services provided by JDH Engineering. Applicant stated in its Reply that it receives from JDH Engineering all general office services, including twenty-four hour emergency response services, general maintenance and replacement duties at the plant, engineering services related to the review of sewer main extensions and designs, and other services above what would be considered general office duties. According to the Reply, JDH Engineering also provides management services to Sani Tech's two affiliate utilities, Eastern Hendricks County Utility, Inc. and Southeastern Utilities, Inc. Applicant updated the portion of the management fee allocated to Sani Tech to reflect rate base calculations made in separate rate filings before the Commission for these affiliate utilities.

Applicant provided no supporting documentation for its proposed 36.9% increase in its affiliate contract with JDH Engineering. Applicant only stated that costs have increased.

Therefore, the Commission finds that Applicant's proposed fee shall remain at the test year level adjusted for the change in rate base allocations among the affiliate utilities, which results in a test year increase of $1,320.

C. ***Depreciation Expense.*** The parties disagreed concerning the amount of depreciation expense to be included for ratemaking purposes. The OUCC included depreciation expense for the $95,000 UPIS approved in Cause No. 41644 and $82,507 in plant additions since the Settlement Agreement. Applicant included test year depreciation expense of $13,740 for the depreciable utility plant recorded on its books. In Applicant's Reply, it asserted that the Settlement Agreement in Cause No. 41644 did not stipulate that future depreciation expense calculations would be based on the $95,000 amount. However, a review of Settlement Schedule C-1 filed in support of the Settlement Agreement in Cause No. 41644 included depreciation expense on the entire UPIS amount after deducting $53,750 for organization costs and $12,800 for land costs. Therefore, the Commission agrees with Applicant's position to include depreciation expense on the entire UPIS balance after deducting land and organization costs, and finds Applicant's depreciation expense to be $14,222.

7. Conclusion. Based on the evidence presented and the foregoing findings, the Commission finds that Applicant's net operating income is $15,259. Further, the Commission finds that Applicant is authorized to increase its rates and charges across-the-board by 8.59%, or $8,185 as depicted below:

Revenue Requirements:		
Fair value/Original Cost Rate Base	$	158,194
Times: Weighted Cost of Capital		9.646%
Required NOI		15,259
Less NOI at present rates		8,998
Increase in NOI required		6,261
Gross Revenue Conversion Factor		1.3072
Revenue Increase	$	8,185
Sewer revenues at present rates		95,270
Net Revenue Requirements	$	103,455
Percentage Increase		8.59%

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION THAT:

1. Consistent with the findings above, Applicant is hereby authorized to increase its rates and charges by 8.59% across-the-board in order to produce additional revenue in the amount of $8,185.

2. Applicant shall include in its Annual Report to the Commission a report of all noise and odor complaints with a description of the steps taken to resolve the complaints.

3. Prior to placing into effect the rates and charges approved herein, Applicant shall file with the Commission's Water/Sewer Division a schedule of rates and charges in a manner consistent with this Order and the Commission's rules for filing such schedules. Such rates and charges will become effective for all sewer service usage upon approval thereof by the Water/Sewer Division of the Commission and shall cancel all prior rates and charges.

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

HARDY, ATTERHOLT, LANDIS, MAYS AND ZEIGNER CONCUR:

APPROVED: SEP 08 2010

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

Sandra K. Gearlds

Sandra K. Gearlds
Acting Secretary to the Commission