ORIGINAL

Commissioner	Yes	No	Not Participating
Huston	√		
Freeman	√		
Krevda	√		
Ober	√		
Ziegner			√

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF NORTH DEARBORN WATER AUTHORITY FOR EXPEDITED APPROVAL TO ISSUE LONG-TERM DEBT AND ADJUST ITS RATES AND CHARGES.	**)))))**	**CAUSE NO. 45618** **APPROVED: MAR 16 2022**

ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
Loraine L. Seyfried, Chief Administrative Law Judge

On September 24, 2021, North Dearborn Water Authority ("North Dearborn" or "Petitioner") filed with the Indiana Utility Regulatory Commission ("Commission") its Petition in this Cause, requesting approval to issue long-term debt and adjust its rates and charges. Also on September 24, 2021, Petitioner filed its case-in-chief testimony and exhibits.

On December 10, 2021, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its case-in-chief testimony and exhibits.

On December 17, 2021, Petitioner filed its rebuttal testimony and exhibits.

On January 19, 2022, a Docket Entry was issued requesting additional information, to which Petitioner responded on January 24, 2022.

The Commission held an evidentiary hearing in this Cause at 9:30 a.m. on January 25, 2022, in Hearing Room 222, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the OUCC appeared at and participated in the hearing. The testimony and exhibits of Petitioner and the OUCC were admitted into the record without objection.

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

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published by the Commission as required by law. Petitioner is a water authority constituted under Ind. Code § 13-18-16-16 and a public utility as defined by Ind. Code § 8-1-2-1(a). Pursuant to Ind. Code § 13-18-16-16(h), Petitioner is subject to Ind. Code § 8-1.5-3-8 for purposes of setting its rates and charges. In addition, under Ind. Code §§ 8-1-2-76 through 8-1-2-80, the Commission has jurisdiction over a public utility's issuance of stocks, bonds, and debt. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this Cause.

2. Petitioner's Characteristics. Petitioner is a water authority organized and existing under and through the laws of the State of Indiana. Petitioner's office is located at 28208 State

Road 1, Suite 105, West Harrison, Indiana. Petitioner provides water utility service to primarily residential, commercial, and agricultural customers in Dearborn, Ripley, and Franklin Counties in Indiana.

3. Relief Requested. Petitioner requests approval to incur long-term debt in the amount not to exceed $4.25 million through a subsidized loan from the Drinking Water State Revolving Fund Loan Program ("DWSRF"). The proceeds from the debt will be used to pay for a new water treatment plant and other necessary extensions, replacements, and improvements to its waterworks system. To qualify for the subsidized DWSRF loan, Petitioner must close on the debt on or before June 30, 2022. Petitioner also requests approval to increase its rates and charges on an across-the-board basis to generate the additional needed revenue associated with its proposed financing.

4. Petitioner's Case-in Chief Evidence.

A. Lori A. Young. Ms. Young, a Registered Professional Engineer and President of Curry & Associates, described Petitioner's history and current system, explaining that Petitioner currently serves 2,176 water customers and has experienced steady growth since it began in 1957. Ms. Young testified Petitioner began as a simple distribution system that purchased water from suppliers, but Petitioner now has its own wells which has reduced the amount Petitioner must purchase from other suppliers. Ms. Young described Petitioner's current facilities and confirmed Petitioner has completed the financing and improvements previously approved by the Commission in Cause No. 44248.

Ms. Young provided a Preliminary Engineering Report ("PER") dated June 15, 2020, and revised April and July, 2021, that included her recommendations for system improvements necessary for Petitioner to continue providing safe, reliable, water utility service to its current and future customers. Ms. Young testified that when evaluating potential system improvements, the PER considered: (1) replacement of water mains where rate of water usage exceeds the carrying capacity of old water mains and customers periodically experience low water pressure; (2) replacement of mains that break on a frequent basis causing customer inconvenience, high cost repairs, and lost water; (3) installation of larger diameter water mains at bottle necks in the distribution system; (4) installation of new water mains in locations that will reinforce the distribution system by improving water pressure, increasing reliability, and improving water quality by eliminating dead-end water mains; (5) installation of new water mains in locations where residents desire water service that does not currently exist; and (6) replacement of water treatment system and water supply infrastructure components critical to the reliable production of drinking water before the end of their useful lives, with an emphasis on parts of the system that do not have redundant components.

Ms. Young testified the proposed improvements to be funded by the DWSRF debt would fall into three categories: water distribution; water supply; and water treatment. For water distribution, Ms. Young recommended the construction of three new water mains to improve system reliability, water pressure, looping, and volume of flow. For water supply, Ms. Young recommended Petitioner upgrade its well capacity to increase the pumping capacity of each of the two existing wells to 1,000 gallons per minute ("gpm") each. She testified this will create additional supply to meet demand, create redundancy of supply, and improve drought resilience and reliability. The preliminary estimated project cost for the well capacity upgrade is $254,000, which consists of $185,000 for construction costs, $27,000 for construction contingency costs, and $42,000 for non-construction costs. For water treatment, Ms. Young recommended Petitioner construct a new water treatment plant ("WTP") to replace its existing plant, which has exceeded its originally anticipated useful life and is nearing its maximum design flow to meet current peak demand. Ms. Young testified the existing steel package WTP is critical to the production of drinking water, and it is necessary to move forward now with the replacement before the existing plant begins to fail. Ms. Young provided specific engineering details of each of the proposed projects.

Ms. Young testified a smaller size WTP was considered, but the 1,000 gpm unit will provide greater flexibility in the next 25 years than a 600 gpm unit for an affordable incremental cost increase that does not have higher operating costs and can be operated at a lower pumping rate with no negative impacts. Ms. Young also considered alternatives for each proposed improvement project, which were summarized in the PER. Ms. Young concluded each of the proposed improvements is necessary and, based on her firm's experience with similar projects in the past, she testified her estimates are reasonable projections of the actual costs that will be incurred for the proposed improvements. However, she noted some variation in the cost is expected given the current construction market due to constrictions in labor and materials supply and a recent increase in projects due to the availability of additional infrastructure funding through various state and federal programs.

B. <u>Douglas L. Baldessari</u>. Mr. Baldessari, a Certified Public Accountant in the firm of Baker Tilly Municipal Advisors, LLC, provided his Accounting Report dated September 20, 2021, showing Petitioner's pro forma financial information for the 12 months ended December 31, 2020, and Petitioner's unaudited financial information, including a comparative statement of Petitioner's financial position as of December 31, 2018, 2019, and 2020 and a comparative statement of activities for those years. Mr. Baldessari also provided Petitioner's statement of cash flows, a comparison of Petitioner's cash and investment account balances, and amortization schedules of Petitioner's outstanding 2009 Notes and 2016 loan from the U.S. Department of Agriculture Rural Development ("RD") Loan Program ("2016 RD Loan"). He testified the adjustments to test year expenses and revenues in his Accounting Report are fixed, known, and measurable.

Mr. Baldessari testified Petitioner's proposed financing through the DWSRF is a reasonable means of funding Petitioner's proposed projects because the DWSRF offers relatively low interest rates with a 35-year amortization for main improvement projects on principal balance, which results in lower rates to Petitioner's customers. He stated the anticipated cost of North Dearborn's projects is $3.95 million; however, due to the uncertainties associated with the cost of materials, Petitioner requests authority to complete the projects and issue bonds or notes in an amount not to exceed $4.25 million. Mr. Baldessari noted Petitioner seeks authority to issue evidences of indebtedness in excess of the anticipated $3.95 million cost so that it can avoid the risk and expense of higher prices that could result from having to obtain additional Commission approval if the cost of the projects exceeds $3.95 million. Mr. Baldessari testified there is no risk Petitioner will unnecessarily borrow additional sums because the DWSRF will only allow

Petitioner to borrow funds sufficient to complete the projects. Mr. Baldessari stated, if the actual cost of the projects is materially different than the cost reflected in his Accounting Report, Petitioner will file a true-up report.

Mr. Baldessari testified Petitioner is also seeking approval to change its rates and charges in two phases as a result of the proposed financing. He testified Petitioner last sought a rate change in 2009 in Cause No. 43736, where the Commission authorized an across-the-board rate increase of 14.97%. Mr. Baldessari testified, for a bi-monthly water bill assuming 8,000 gallons, the total aggregate increase would be approximately $12.01 for Phase 1 and $11.11 for Phase 2. He concluded the rates proposed in the Accounting Report are fair, just, non-discriminatory, reasonable, and necessary to meet Petitioner's projected revenue requirements, including its debt service requirements.

5. <u>OUCC's Case-in-Chief Evidence</u>.

A. <u>Carl Seals</u>. Mr. Seals, Assistant Director in the OUCC's Water/Wastewater Division, described his review and analysis of Petitioner's system, which included a site visit and a review of Petitioner's records, external resources, and customer comments. Mr. Seals testified Petitioner proposes five capital improvements to its distribution system: (1) upgrade of the well capacity pumping to 1,000 gpm; (2) replacement of an existing 600 gpm WTP with a new, 1,000 gpm WTP; (3) construction of a 12-inch water main along North County Line Road; (4) construction of a 12-inch water main along Central Drive; and (5) construction of an 8-inch water main along Post 464 Road.

Mr. Seals testified Petitioner does not need additional production capacity because its current finished water storage is equivalent to more than three days' average usage of 342,000 gallons per day ("gpd"). He explained that reliance on peak days for plant and well-sizing decision making may yield ineffective results given the amount of North Dearborn's finished water storage. He noted each of Petitioner's wells can supply 864,000 gpd if operated for 24 hours, which would have met Petitioner's peak plant production over the last two years. Mr. Seals further testified Petitioner already meets the Ten States Standards' recommendation that the total developed groundwater source capacity shall equal or exceed the design maximum day demand with the largest producing well out of service, and he noted Petitioner will likely meet this requirement for some time. Mr. Seals stated it is unclear how a well upgrade intended to significantly increase groundwater withdrawal will improve Petitioner's drought resiliency, noting the Environmental Protection Agency suggests increased withdrawals from the local aquifer may negatively impact watershed sustainability as greater volumes are withdrawn. He stated Petitioner's second available well already provides redundancy to the system. Mr. Seals noted Ms. Young indicated both wells are in good condition and should be fully productive for the 20-year planning horizon and provided no evidence the existing well pumps are at the end of their service lives. For these reasons, Mr. Seals recommended the Commission deny $254,000 of Petitioner's borrowing authority request, which he testified represents the cost of the well capacity upgrade.

As to Petitioner's other proposed projects, Mr. Seals testified he accepts Petitioner's proposed increase in the WTP size given North Dearborn could not have met its recent peak flow of 800,000 gallons per day with its largest filtration unit out of service. Mr. Seals described the three remaining projects involving the installation of new water mains and concluded, except for the well capacity upgrade, the projects appear to be reasonable for the continued provision of reliable service. He recommended the Commission approve $3.641 million for the proposed projects. Further, Mr. Seals testified he accepts Petitioner's pro forma expense amounts for each periodic maintenance item and recommended Petitioner include in its Annual Reports to the Commission its monthly main break data since Petitioner does track and report this information to its Board.

B. **Shawn Dellinger.** Mr. Dellinger, a Utility Analyst in the OUCC's Water/Wastewater Division, described Petitioner's proposed debt issuance and agreed the structure of the borrowing is appropriate and in the ratepayers' interest. Based on Mr. Seals' recommendation, Mr. Dellinger testified Petitioner's requested debt authority should be reduced by $254,000 for costs related to the well capacity upgrade. Mr. Dellinger also recommended reductions in certain contingency amounts and close examination of fees embedded in the proposed borrowing. Mr. Dellinger disagreed with the 15% construction contingency because DWSRF limits contingencies to 10%. He also noted that Mr. Seals' recommendation to eliminate the well pump upgrade includes $27,000 of contingency as well as soft costs. Regarding the $625,000 of contingency that he characterized as an "inflation allowance," Mr. Dellinger testified this amount should be reduced to $280,000 (or 20% of the estimated cost for the new WTP), apply only to the new WTP and not be used for cost overruns on other components, and be subject to his recommended true-up reporting. Mr. Dellinger recommended total debt authorization of $3,525,070, consisting of $1,608,070 for Series A and $1,917,000 for Series B bonds.

Mr. Dellinger recommended North Dearborn's debt service revenue requirement be structured as $110,136 for Phase 1 and $147,690 for Phase 2, based on $3,245,070 of borrowings (Series A is $1,608,070 and Series B is $1,637,000) at an interest rate of 2.65% for Series A and 2.75% for Series B debt, which reflects Mr. Dellinger's recommendation to lower Petitioner's proposed interest rate adjustment from 100 to 50 basis points due Petitioner's anticipated closing in the near term. Mr. Dellinger also disagreed with Petitioner's calculation of debt service revenue requirements for Phase 1 and recommended Phase 1 rates be based upon the total anticipated payment from April 20, 2022 to June 1, 2023. He proposed a Series A debt service revenue requirement of $53,760 in Phase 1 and $72,053 in Phase 2, and a proposed Series B debt service revenue requirement of $56,375 in Phase 1 and $75,638 in Phase 2.

Regarding Petitioner's proposed debt service reserve, Mr. Dellinger testified Petitioner's current debt service reserve balance of $120,774 needs to be deducted from the $252,540 debt service that needs to be funded. He further testified Petitioner's debt service reserve should be placed in a restricted account, and Petitioner should notify the Commission and OUCC within five business days of any transaction where it spends any funds from its debt service reserves for any reason other than to make the last payment on its current or proposed debt issuances.

Mr. Dellinger recommended Petitioner true-up its proposed annual debt service once the interest rates on its proposed debt are known by filing a report within 30 days of closing on each of its long-term issuances. He further recommended Petitioner reduce its borrowings by any reduction in estimated issuance costs at this time, and Petitioner submit a revised tariff, amortization schedule, and rate impact calculation. Mr. Dellinger testified, if the additional debt from the inflation allowance is needed, Petitioner should provide bid tabulations for the WTP at least two weeks prior to closing and the OUCC should be entitled to comment or object. He further recommended North Dearborn file a report with its bid tabulations and final soft costs when the projects are completed and an interim report two years after the closing of the debt if the projects are still ongoing and costs are still being incurred. Since Petitioner's debt service reserve is anticipated to be fully funded in April 2027, Mr. Dellinger recommended Petitioner file an updated tariff removing the annual debt service reserve amount in 2027 or continue funding a debt service reserve restricted account in anticipation of future projects. For challenges to the true-up, Mr. Dellinger testified the OUCC and Petitioner should have 14 days respectively to object and respond. He stated no true-up should be implemented if the parties agree in writing an adjustment would be immaterial. Finally, Mr. Dellinger testified that financing authority not used by Petitioner should expire 365 days following the Commission's order, and for any timing differences of more than two months between implementation of rates and closing, the revenue requirement for current debt should be placed in a restricted account and used to reduce the balance that must be borrowed, with refunds issued if borrowing is delayed for more than one year.

C. Thomas Malan. Mr. Malan, a Utility Analyst in the OUCC's Water/Wastewater Division, recommended Petitioner implement an overall rate increase of 40.43% to be implemented across-the-board in two phases, with a Phase 1 increase of 19.29% and a Phase 2 increase of 17.72%. Mr. Malan provided his calculations in supporting schedules. He testified that although he does not entirely agree with Petitioner's calculation of its revenue normalization, the difference is immaterial, and he accepts Petitioner's proposed adjustments to operating revenues and late fees. Mr. Malan agreed with Petitioner's operating expense adjustments, except he recommended additional adjustments to salaries and wages, payroll taxes, the IURC fee, and certain non-recurring and disallowed test year expenses. Specifically, he recommended a $61,759 increase to salaries and wages expense; a $4,539 increase to payroll taxes; a $2,934 decrease to remove non-recurring expenses; a $9,998 decrease to amortize non-recurring legal expense; and a $1,022 decrease to remove IURC fee expense. Mr. Malan recommended pro forma operating expense and taxes of $710,791.

6. Petitioner's Rebuttal Evidence.

A. Lori Young. Ms. Young identified five reasons why Petitioner's request for upgraded well capacity should be granted over the OUCC's objections. First, Petitioner has several proposed projects that will need water, including an 84-lot subdivision currently under construction. In addition, Petitioner's service territory is immediately adjacent to the I-74 corridor between Indianapolis and Cincinnati, which is prime for commercial and other types of economic development. Second, North Dearborn's proposed 1,000 gpm well pumping rate is designed to match the WTP design rating so the well production rate matches all the high service pumps and control systems installed with the 1,000 gpm WTP. Without the upgraded well capacity, Ms. Young stated Petitioner's plant capacity will be limited. Third, Petitioner's proposal maximizes cost efficiencies because there will be no additional mobilization or demobilization costs since the bidder will already be on-site to perform all the projects at once. Fourth, Ms. Young testified Petitioner plans to reduce the amount of purchased water in the future by self-producing more water, which will allow North Dearborn to maintain more stable rates and have greater control over its operations. Fifth, Ms. Young stated the additional capacity will enable Petitioner to better meet peak day demands in the future. She testified, based on Petitioner's intent to self-produce a higher percentage of its water needs, Petitioner would need to produce 88.6% of its peak day demand, equal to 1,063,200 gpd, which could not be met with Petitioner's existing 600 gpm wells. Further, Ms. Young testified, to the extent the OUCC is proposing a project different than what was rated and scored by the DWSRF, the OUCC's approach is inconsistent with the DWSRF finding that the overall project is needed and should be completed.

Ms. Young testified, once the Petitioner receives its bids, it will adjust its contingency amount to the 10% level required by the DWSRF. She clarified that Petitioner's 15% contingency is both common and proper at the PER stage, especially considering the volatile prices for public works projects. Ms. Young disagreed with Mr. Dellinger's proposal to reduce the $625,000 contingency (which he calls an "inflation allowance") to $280,000. She testified that, because of supply chain and labor shortage issues caused by the global pandemic, actual costs are commonly higher than budgetary estimates. She testified, instead of jeopardizing the DWSRF funding, the more prudent and conservative approach given the economic climate is for Petitioner to preserve all the proposed contingencies and then true-up the actual costs of construction following receipt of bids.

B. <u>Douglas Baldessari</u>. Mr. Baldessari agreed with Mr. Malan's recommendation for increased salaries and wages expense, payroll tax adjustments, nonrecurring, legal, and IURC fee expense adjustments. He agreed with the OUCC's total pro forma operating expenses of $710,792 and the inclusion of $2,700 of other income as a revenue requirement offset along with penalty revenues as revenues at current rates subject to increase.

Mr. Baldessari agreed to remove the miscellaneous amount of $20,813 that was inadvertently included in non-construction costs, but he disagreed with the OUCC's proposed adjustment to the debt service requirement related to the removal of the well capacity upgrades and reduction of contingencies from 15% to 10%. Based on this, the Series A bond was reduced by $20,000 to $1,645,000, but the Series B bond was unchanged. Regarding the cost estimates for legal, bond counsel, and financial advisory services, Mr. Baldessari agreed to Mr. Dellinger's true-up recommendation but explained why his estimates were reasonable. He also provided details on the scope of work for the professionals involved with Petitioner's proposal. Mr. Baldessari also disagreed with the OUCC's recommendation to reduce Petitioner's proposed $625,000 contingency to $280,000 because bid prices have come in high lately due to increases in material and other costs. He further clarified Petitioner will only borrow the amount needed based on the construction bids received and the bond sizing, debt service requirements, and resulting rates will be trued up after the notes are issued.

Mr. Baldessari agreed with Mr. Dellinger's recommendation to add 50 basis points to the current DWSRF subsidized interest rate since the proposed loan closing date is near. He also agreed with the OUCC's proposed calculation of the debt service requirement for Phase 1. Mr. Baldessari testified that within approximately two weeks of closing, the DWSRF will hold a pre-closing where North Dearborn will provide a detailed list of all expenses and actual bids, and the final sizing of the loan will be adjusted to reflect the actual costs of the projects, including soft costs. He agreed Petitioner will file a true-up report with the Commission reflecting the final amount of the loan, all soft costs, the final interest rate, and any proposed adjustments to the rates resulting from the actual borrowed amount and interest rate.

Finally, Mr. Baldessari disagreed with the OUCC's proposed calculation of the debt service reserve revenue requirements. He testified, based on conversations with bond counsel and DWSRF, the outstanding documents and RD will not permit inclusion of the debt service reserve on the 2016 RD Loan with the notes issued through the DWSRF. However, the DWSRF will permit a combined debt service reserve for the 2009 Notes and the proposed 2022 notes. Mr. Baldessari testified he calculated the debt service reserve requirement to equal the combined maximum annual debt service on the 2009 Notes and the proposed 2022 notes, less the fully funded debt service reserve on the 2009 Notes (of $53,451) to be funded over a five-year period. He also proposed Petitioner be authorized to keep the debt service requirement included in the rates and use the monies generated for replacements, improvements, and other expenses of operating and maintaining the utility after the debt service reserve is fully funded. Mr. Baldessari provided a revised calculation for Petitioner's revenue requirement and proposed across-the-board rate increase, which resulted in an increase to Phase 1 rates from 23% to 23.74% and a decrease for Phase 2 rates from 17.26% to 16.53%.

7. <u>Commission Discussion and Findings</u>. As an initial matter, we must remind the parties that proposed orders are not evidence and cannot be relied upon by the Commission as support for its factual findings. 170 IAC 1-1.1-23(c). Consequently, we do not rely on the parties' agreed proposed order in making our determination on the disputed issues identified above. If the parties had wanted the Commission to consider their agreement on the disputed issues, they should have filed a settlement agreement, along with supporting evidence, prior to the hearing in accordance with 170 IAC 1-1.1-17 and the procedural schedule established for this Cause in the Commission's September 30, 2021 Docket Entry or filed a motion to reopen the record in accordance with 170 IAC 1-1.1-22(b).

Accordingly, based on our review of the evidence as presented at the evidentiary hearing in this Cause and for the reasons set forth below, we find Petitioner should be authorized to issue long-term debt in an amount not to exceed $4,017,000 and to increase its rates in Phase 1 by 22.11% to produce additional revenues of $180,623 and in Phase 2 by 16.29%, to produce additional revenues of $162,558. This authorization shall expire in one year for any portion of the authorized debt not issued within one year of this Order. This authorization is also limited to specific projects as discussed below and our findings on Petitioner's revenue requirement and rates, debt issuance, debt service reserve, the use of contingency funds, and required true-up reports.

A. <u>Proposed Projects</u>. The OUCC generally agreed the proposed projects described in the PER were reasonable and necessary, except for the well capacity upgrade. Although Petitioner provided evidence of the benefits of adding the proposed well capacity, including the ability to serve possible growth, its goal of increasing the amount of more cost-effective, self-supplied water, and its preference to align the well pump capacity with the WTP, North Dearborn remains contractually bound to purchase a minimum quantity of purchased water from Hoosier Hills until 2028. We agree with the OUCC that Petitioner does not appear to have an imminent need for the expanded well capacity and Petitioner's existing capacity appears to be sufficient to serve Petitioner's needs for some time, assuming continued customer growth at historical levels. If the need for additional water supply becomes more imminent, Petitioner may renew its request for authority to issue long-term indebtedness to fund an expansion to its well capacity.

As for the remainder of the projects described by Petitioner's PER, we find the three new water main projects are necessary and prudent because they will improve system reliability, water pressure, and volume of flow. We also find Petitioner's proposal to use the debt proceeds to construct a new WTP to replace its existing plant, which has exceeded its originally anticipated useful life and is nearing its maximum design flow to meet current peak demand, to be reasonable and necessary. North Dearborn's existing steel package WTP is critical to the production of drinking water, and agree it is prudent to replace the WTP before the existing plant begins to fail.

Therefore, based on the evidence presented, we find Petitioner should be authorized to use the debt proceeds for the projects described by Petitioner's PER, except for Petitioner's proposed well capacity upgrade project. We also find, as recommended by the OUCC, Petitioner shall include its monthly main break data in its Annual Report to the Commission.

B. <u>Contingency</u>. The OUCC disagreed with Petitioner's inclusion of a 15% construction contingency for the proposed projects, arguing that DWSRF limits construction contingencies to 10%. However, on rebuttal, Ms. Young explained a 15% contingency is reasonable at the PER stage, especially given current supply chain and labor shortage issues. She testified North Dearborn will adjust its contingency amount to 10% once bids are received.

Based on the evidence presented, we find Petitioner's inclusion of a 15% contingency at this time is reasonable, particularly given the parties agreement to true-up actual construction costs following receipt of the bids. Accordingly, we authorize Petitioner's borrowing authority to include the 15% pre-bid contingency reflected in the PER as well as the $625,000 additional contingency Petitioner has requested. By including these contingencies in the authorized borrowing, Petitioner is more likely to have sufficient borrowing authority to cover final costs that are higher than expected. However, our authorization is conditioned on Petitioner using the funds for the authorized projects as described in the PER and related contingencies and soft costs, and only in the amounts needed based on the construction bids.

C. <u>Debt Issuance</u>. Based on the evidence presented, we authorize Petitioner to issue an amount not to exceed $4,017,000 in debt, which is comprised of the current proposed DWSRF notes par amount of $3,392,000 plus the authorization of $625,000 for additional contingency. Petitioner's debt service shall seek to structure the debt as a $1,669,000 principal Series A DWSRF 34-year loan with level amortization at an assumed subsidized interest rate of 2.65% and a $1,723,000 principal Series B DWSRF 20-year loan with wrapped amortization at an assumed subsidized interest rate of 2.75%, which we find is appropriate given Petitioner's anticipated closing in the near term.

The calculation of the Series A loan and Series B loan are shown below. Using the spreadsheet in Petitioner's Exhibit 5, page 9, the Commission removed the construction cost of the well capacity upgrade of $185,000 from the Series B loan, which also reduced the embedded contingency cost and non-construction costs associated with the elimination of the $185,000 well capacity upgrade. The Commission also removed the miscellaneous amount of $20,813 from the Series A loan as accepted by Mr. Baldesarri on rebuttal. Pet. Ex. 7, p. 2. Also, the SRF loan amounts reflected below are rounded to the nearest $1,000.

ESTIMATED PROJECT COSTS			
	Series A	Series B	Total
Estimated Construction Costs:			
Well capacity upgrade			
New water treatment plant		$ 1,400,000	$ 1,400,000
Water main improvements	$1,138,700		1,138,700
Sub-totals	1,138,700	1,400,000	2,538,700
Construction Contingencies (15%)	170,800	208,200	379,000
Total Estimated Construction Costs	1,309,500	1,608,200	2,917,700
Estimated Non-Construction Costs:			
Engineering/design	146,223	179,777	326,000
Construction resident project representative	38,126	46,874	85,000
Labor standards administrator	4,485	5,515	10,000
Asset management plan	17,941	22,059	40,000
Cost of issuance	152,244	185,443	337,687
Less: Miscellaneous costs	(20,813)		(20,813)
Total Estimated Non-Construction Costs	359,063	439,668	798,731
Total Estimated Project Costs	$1,668,563	$2,047,868	$3,716,431
ESTIMATED PROJECT FUNDING			
Proposed SRF Notes	$1,668,563	$1,722,868	$3,391,431
Cash on hand		300,000	300,000
Supplemental Grant (Asset management plan)		25,000	25,000
Total Estimated Project Funding	$1,668,563	$2,047,868	$3,716,431

Regarding Phase 1 debt service, we decline to accept the OUCC's recommendation to base Petitioner's rates upon the total anticipated payment from April 20, 2022 to June 1, 2023 because the precise date for closing on the loans is currently unknown. Moreover, Petitioner indicated in its January 24, 2022 Response to the Commission's January 19, 2022 Docket Entry that it is planning to close on the loans in May 2022. Pet. Ex. 9, p. 3. Therefore, using the methodology identified by Mr. Baldessari in his rebuttal filing, we find the debt service for Phase 1 is $127,687 for the Series A loan and Series B loan. For Phase 2, we find the debt service is the five-year average ending January 1, 2028, which is $155,137. However, the final debt service structure and interest rates shall be reflected in Petitioner's true-up.

D. <u>Debt Service Reserve</u>. We agree in this case with Petitioner's approach for calculating the debt service reserve. Mr. Baldessari testified that based on conversations with bond counsel and DWSRF, the outstanding documents and RD will not permit inclusion of the debt service reserve on the 2016 RD Loan with the notes issued through the DWSRF. However, the DWSRF will permit a combined debt service reserve for the 2009 Notes and the proposed 2022 notes. Mr. Baldessari testified he calculated the debt service reserve requirement to equal the combined maximum annual debt service on the 2009 Notes and the proposed 2022 notes, less the fully funded debt service reserve on the 2009 Notes to be funded over a five-year period. Accordingly, we find debt service reserve to be $31,781. Further, we find Petitioner's proposal to keep the debt service requirement included in rates and use the monies generated for replacements, improvements, and other expenses of operating and maintaining the utility after the debt service reserve is fully funded to be reasonable, particularly given the likely increase in future operating expenses and needed infrastructure investments.

E. <u>Rates and Revenue Requirement</u>. Based on the evidence presented, we find Petitioner's current rates and charges, which will provide annual adjusted revenues of $817,024 in Phase 1 and $997,647 in Phase 2, are insufficient to satisfy Petitioner's annual pro forma net revenue requirement of $1,000,362 in Phase 1 and $1,162,920 in Phase 2. Therefore, we find Petitioner should be authorized to increase its rate and charges by $180,623 in Phase 1, which is a 22.11% increase, and to increase its rates and charges by $162,558 in Phase 2, which is a 16.29% increase over Phase 1 rates.

Petitioner's net revenue requirements are itemized below:

	Phase1	Phase 2
Revenue Requirement		
Operating Expenses	$ 701,039	$ 701,039
Taxes Other Than Income	9,752	9,752
Extensions & Replacements	40,550	175,658
Debt Service		
Current -'2009 Bonds	52,840	52,840
Current - 2016 Bonds	51,600	51,600
Proposed 2022 Bonds	127,687	155,137
Debt Service Reserve	31,781	31,781
Total Revenue Requirements	1,015,249	1,177,807
Less Revenue Requirement Offsets:		
Late Fees	-	-
Interest Income	(14,887)	(14,887)
Net Revenue Requirement	1,000,362	1,162,920
Less: Revenues @ Current rates subject to increase	(817,024)	(997,647)
Less: Other revenues not subject to increase	(2,715)	(2,715)
Recommended Increase	$ 180,623	$ 162,558
Recommended Percentage Increase	22.11%	16.29%

Under these rate increases, a residential customer using 5,000 gallons per month would experience an average bill increase of $7.07 per month from $32.03 to $39.10 for Phase 1, and an additional $6.38 increase from $39.10 to $45.48 for Phase 2, based on a bi-monthly bill.

F. <u>True-Up Reporting</u>. The Commission's approval herein is conditioned on North Dearborn filing in this Cause, and serving on the OUCC, the following:

> 1. Prior to closing, a report with an updated estimate of all non-construction costs indicating what non-construction costs have been incurred and eliminated. If Petitioner determines it needs to resort to any borrowing that includes the $625,000 additional contingency based on the bids received for the authorized projects, it shall also provide the bid tabulations within two weeks of that determination; and
>
> 2. Within 30 days after each closing, a true-up report describing the final terms of the debt, the amount of debt service reserve, the amortization schedule for the debt, and a revised tariff. Petitioner's report shall include bid issuance costs, bid tabulations, and engineering costs to the extent known. The OUCC shall have 14 days from the date of service of the true-up report to file an objection with the Commission. If an objection is filed, Petitioner shall have 14 days to respond to the OUCC's objection. If both parties agree that any increase or decrease indicated by the report would be immaterial, then the parties shall file a notice under this Cause indicating such agreement and Petitioner need not implement the true-up.

G. <u>Public Utility Fee</u>. It has come to the Commission's attention that Petitioner has not been assessed or paid the public utility fee in accordance with Ind. Code ch. 8-1-6. As noted above in Finding Paragraph 1, Petitioner is both a water authority and a public utility. Although Petitioner's rates and charges are set in accordance with Ind. Code § 8-1.5-3-8, which addresses rates and changes for municipal utilities, Petitioner is not a municipal utility and therefore, not subject to municipal charges under Ind. Code § 8-1-2-70. *See Stucker Fork Conservancy Dist. v. Ind. Util. Reg. Comm'n,* 600 N.E.2d 955 (Ind. Ct. App. 1992) (concluding the requirement to set Stucker Fork's rates and charges in accordance with Ind. Code § 8-1.5-3-8 did not transform the conservancy district into a municipal utility and Stucker Fork was properly assessed the public utility fee). Therefore, the Commission will assess, and Petitioner will promptly pay, the public utility fee. In addition, when completing its true-up report required above in Finding Paragraph 7.F., North Dearborn may include the public utility fee amount in its calculations for evaluating whether to implement the true-up.

8. <u>Alternative Regulatory Program ("ARP")</u>. If Petitioner elects to participate in the Small Utility ARP in accordance with procedures approved in Cause No. 44203, the eligible operating expenses to which the Annual Cost Index will be applied are $601,436. This amount excludes $99,603 approved for purchased water. Taxes Other Than Income of $9,752 and

Extensions & Replacements of $40,550 are also eligible expenses to which the Annual Cost Index will be applied. All other components of Petitioner's revenue requirement will remain unchanged.

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

1. Petitioner is authorized to incur long-term debt in an amount not to exceed $4,017,000, which is comprised of the current proposed DWSRF notes par amount of $3,392,000 plus the authorization of $625,000 for additional contingency. The proceeds from the debt will be used to pay for Petitioner's three water main projects and its water treatment plant project described in Petitioner's PER.

2. Petitioner's issuance of the approved long-term debt is subject to the reporting and other conditions set forth herein.

3. Petitioner is authorized to increase its rates and charges for water service as provided herein.

4. Prior to implementing the rates approved in this Order, Petitioner shall file an updated tariff and applicable rate schedules under this Cause for approval by the Commission's Water/Wastewater Division. Such rates and charges shall be effective on or after the Order date subject to the Division's review and agreement with the amounts reflected.

5. The financing authorized herein shall expire in one year for any portion of the authorized debt not issued within one year of this Order.

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

HUSTON, FREEMAN, KREVDA, AND OBER CONCUR: ZIEGNER ABSENT:

APPROVED: MAR 16 2022

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

Dana Kosco

Digitally signed by Dana Kosco
Date: 2022.03.16 10:09:56 -04'00'

Dana Kosco
Secretary of the Commission