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 J.B. WATERWORKS, INC. FOR A NEW SCHEDULE OF RATES AND CHARGES.) **CAUSE NO. 45311 U**

) **APPROVED:** APR 29 2020

ORDER OF THE COMMISSION

Presiding Officers:
Stefanie N. Krevda, Commissioner
Carol Sparks Drake, Senior Administrative Law Judge

On October 23, 2019, J.B. Waterworks, Inc. ("JBW" or "Applicant") filed a Small Utility Rate Application ("Application") with the Indiana Utility Regulatory Commission ("Commission") pursuant to Ind. Code § 8-1-2-61.5 and 170 IAC 14-1 requesting approval of an 87.31% across-the-board rate increase. JBW subsequently filed proof of the notice Applicant published as required by 170 IAC 14-1-2(b). The Commission's Water and Wastewater Division on November 23, 2019, issued a Memorandum finding the Application was complete. The Indiana Office of Utility Consumer Counselor ("OUCC") filed a report on January 21, 2020, as required by 170 IAC 14-1-4(a), regarding JBW's proposed rates in which the OUCC recommended a 60.18% overall rate increase.

On March 6, 2020, a docket entry was issued requesting JBW to respond to questions that focused upon the age and testing of Applicant's meters, JBW's water losses, and related matters. In that same docket entry, the OUCC was asked about Applicant's meter testing and replacement program and what, if any, action the OUCC recommends be taken with respect to Applicant's lost water and aged meters. JBW and the OUCC each subsequently responded to this docket entry. In its responses, the OUCC recommended JBW continue to replace or test meters until JBW is in compliance with 170 IAC 6-1-10, and the OUCC did not oppose the prospect of approving a Phase II rate increase in this Cause to reflect in JBW's rate base the cost of additional meter replacements once these meters are installed and in-service, subject to certain reporting requirements.

Because Applicant has only 119 customers, under Ind. Code § 8-1-2-61.5, a formal public hearing was not required unless requested by the OUCC, a public or municipal corporation, at least 10 individuals, firms, limited liability companies, corporations, or associations, or by 10 customers. Such a hearing was not requested, and no hearing was held.

Based on the evidence and the applicable law, the Commission finds as follows:

1. **Commission Jurisdiction and Notice.** Notice of the filing of this small utility rate case and JBW's requested rate increase was given to Applicant's customers and published in accordance with applicable law. Applicant is a public utility as defined in Ind. Code § 8-1-2-1, provides retail water service to less than 8,000 customers, and does not extensively serve another utility. The Application satisfies the requirements of Ind. Code § 8-1-2-61.5 and 170 14-1; therefore, the Commission has jurisdiction over Applicant and the subject matter of this rate case.

2. **Applicant's Characteristics.** Applicant is an investor-owned public utility organized and existing under the laws of the State of Indiana. JBW was formed to provide water service to the residents of Jongkind Park subdivision located near the City of La Porte, Indiana. Applicant provides water utility service within the Jongkind Park subdivision to approximately 119 residential customers and renders such service by means of utility plant, property, equipment, and facilities that Applicant owns, operates, manages, and controls. Applicant's system includes four wells, a treatment plant, and mains ranging from two to six inches in diameter. The primary storage for Applicant's water system is a 70,000 gallon concrete ground storage tank located near the treatment plant. While JBW uses hydrants to flush its system, JBW does not provide fire protection. Mark Jongkind serves as President and Secretary of JBW, and he is Applicant's sole paid employee. Contractors are generally used for major repairs and excavating.

3. **Existing Rates and Relief Requested.** JBW's existing rates and charges were established in the Commission's May 9, 2012 Order in Cause No. 44115 U. In the Application, JBW requested an across-the-board increase of 87.31% to generate an additional $35,318 of revenues due to increased operating expenses. The drivers behind this requested increase include: (1) increased salaries and wages due to the full-time employment of the owner/operator; (2) the need for additional pipe and leak repair; (3) increased capital expenditures; and (4) the acquisition of liability insurance. In addition, Applicant's federal income tax rate increased from 15% to 21%, but this was partially offset by a reduced state income tax rate from 8.5% to 5.5%. Finally, operating revenues under the proposed rates in Cause No. 44115 U were $47,544, but JBW's operating revenues under present rates are $40,453, an under-recovery of $7,091. JBW's original proposal would have increased the current rate of $27.43 per month for 5,000 gallons of water to $51.39.

4. **Test Year.** Applicant's proposed test year is the 12 months ending December 31, 2018. With adjustments for changes that are fixed, known, and measurable, the Commission finds this test period is sufficiently representative of JBW's normal operations to provide reliable data for ratemaking purposes.

5. **Pro forma Test Year Operating Revenues.** JBW calculated its total pro forma annual revenue requirement to be $75,772. In its report, the OUCC disagreed with this amount and proposed total pro forma annual revenues of $64,797.

6. **OUCC Report.** Richard J. Corey and Carl N. Seals, Utility Analysts in the OUCC's Water/Wastewater Division, prepared the OUCC's Report. In response to the Application, the OUCC calculated a 60.18% rate increase is appropriate, producing an annual revenue increase of $24,344. Key differences between the parties include the OUCC's corrections to accumulated depreciation, rate base, taxes, and a capital expenditure that JBW misclassified.

A. **Rate Base.** Applicant proposed the Commission find it has an original cost rate base of $17,961. This consisted of utility plant in service of $122,499, reduced by accumulated depreciation of $112,052, plus working capital of $7,514. Mr. Corey did not accept Applicant's proposed rate base. He stated that since JBW's last rate case, Cause No. 44115 U, JBW has added two assets to its utility plant in service, those being a truck costing $1,500 that was purchased on December 5, 2014, and a pressure tank costing $3,095 that was purchased on September 20, 2016. During the OUCC's accounting field visit, however, JBW was unable to provide any documentation to support the truck purchase. Mr. Corey stated that because it is Applicant's responsibility to provide documentation of any additions made to utility plant in service, in his rate base calculation Mr. Corey reduced JBW's utility plant in service by the $1,500 cost of the truck.

As part of Mr. Corey's analysis of Applicant's rate base, he also recalculated accumulated depreciation from the end of the test year in Cause No. 44115 U to the end of the test year in this proceeding. In doing so, he used the composite rate of 2.00% and assumed a half year convention on the addition of the pressure tank purchased in 2016. Mr. Corey testified his calculation resulted in accumulated depreciation as of December 31, 2018, of $116,879. Mr. Corey stated his rate base calculation includes $6,792 of working capital. He explained that he calculated working capital by taking his pro forma operating expense of $55,597, subtracting $4,232 of purchased power expense, and then adding $2,733 of payroll tax expense. Because purchased power is paid in arrears, he stated an additional allowance for working capital is not required. Mr. Corey testified that he then multiplied the adjusted operating and maintenance expense of $54,098 by the 45 day factor of 12.5% to derive a working capital requirement of $6,792. The OUCC's working capital calculation included payroll tax expense of $2,733 in contrast to JBW's calculation that excluded payroll taxes. Per Mr. Corey, the foregoing results in a recommended original cost rate base of $10,882.

B. Weighted Cost of Capital. Mr. Corey testified that Applicant's capital structure of $19,349 consists of common stock issued of $13,000 and additional paid in capital of $6,691, offset by retained earnings of negative $342. JBW has no long-term debt. Applicant proposed a 9.5% cost of equity. Mr. Corey stated the OUCC did not perform a detailed cost of equity analysis since a more precise cost of equity determination would have a minimal effect in this proceeding on Applicant's rates; therefore, the OUCC accepted Applicant's proposed 9.50% cost of equity.

C. Operating Revenues. Applicant did not propose any revenue adjustments. Mr. Corey accepted Applicant's position that no revenue adjustments are required because JBW has experienced no customer growth during either the test year or subsequent to the test year.

D. Operating Expenses. Applicant proposed adjustments to the following operating expenses: (1) a $12,600 increase to salaries and wages, reflecting the transition of the owner/operator to full-time employment; (2) a $6,420 increase in periodic maintenance, primarily associated with additional pipe and leak repair; (3) an increase in capital expenditures of $8,745 for meter replacements; (4) an increase of $5,000 for insurance; (5) a $480 increase for rate case expense; (6) a $52 increase to IURC fees; (7) a $719 increase to depreciation expense; (8) a $964 payroll tax increase; (9) a $552 increase to utility receipts tax expense; (10) a decrease of $1,833 to state income tax; and (11) a $6,424 decrease to federal income tax expense. Mr. Corey stated the total operating expense adjustments JBW proposed resulted in an increase of $27,275 to test year operating expenses and taxes of $37,346, yielding pro forma operating expenses and taxes other than income of $64,621. He accepted Applicant's adjustments to salaries and wages, maintenance expense, insurance, rate case expense, payroll taxes, IURC fee, and utility receipts tax. He disagreed with JBW's adjustments to capital expenditures, depreciation expense, other taxes and licenses, state income tax, and federal income tax.

(i) Capital Expenditures. JBW proposed an increase to operating expenses of $8,745 for the purchase of meters. Mr. Corey stated this adjustment was not accepted because this capital expenditure was inadvertently recorded as a test year operating cost but should have been capitalized and recorded as an addition to utility plant in service. Mr. Corey testified that Applicant's general ledger indicates no expenditure of $8,745 for meters was recorded during the test year. Based on discussions with Applicant's rate consultant, he testified it was determined this adjustment represented a proposed addition to JBW's utility plant, and since proposed capital expenditures are not properly included as operating expenses, JBW's proposed adjustment was not accepted.

(ii) Depreciation Expense. Applicant proposed depreciation expense of $2,344 based on depreciable utility plant in service of $117,214. Mr. Corey, however, testified that he determined Applicant's utility plant in service is $120,999, from which he removed $5,285 of land and land rights, resulting in depreciable utility plant in service of $115,714 as compared to JBW's depreciable utility plant in service of $117,214. He stated that using the composite depreciation rate of 2.00% results in pro forma depreciation of $2,314, not $2,344, and he recommended a depreciation expense adjustment of $689 instead of Applicant's $719 adjustment.

(iii) Other Taxes and Licenses. Mr. Corey testified that in response to certain OUCC data requests, Applicant provided its adjusting journal entries for the year ended December 31, 2018. He stated journal entry number 11 recorded accrued utility receipts taxes of $1,116, but in its filing, Applicant's adjustment number 6-16 recorded utility receipts tax of $552. Mr. Corey stated that his adjustment removes this duplication.

(iv) State Income Tax Expense. JBW proposed a pro forma state income tax benefit of $6,425. Mr. Corey disagreed with this adjustment, stating that in calculating its proposed pro forma present and proposed state income tax, Applicant used a state income tax rate of 5.75%, but as of July 1, 2019, the correct Indiana state tax rate is 5.50%. He used the 5.50% rate in calculating his state income tax expense adjustment. In addition, Mr. Corey testified there were other changes in the proposed pro forma income tax amount as a result of flowing through the OUCC's other expense adjustments.

(v) Federal Income Tax Expense. According to Mr. Corey, the differences between Applicant's and his federal tax calculation are the result of flowing through the operating expense adjustment differences discussed above.

Mr. Corey's total operating expense adjustments result in an increase of $19,954 to Applicant's test year operating expenses and taxes of $37,346, yielding pro forma present rate operating expenses and taxes other than income of $57,300. On rebuttal, Applicant accepted all of the OUCC's recommended adjustments, concurring with the OUCC's recommended 60.18% increase in Applicant's operating revenues on an across-the board basis. Mr. Corey testified this provides JBW the opportunity to collect $17,881 in net revenues.

E. Additional OUCC Recommendations and/or Comments. Mr. Seals testified that as used in Applicant's annual reports filed with the Commission, water loss is the difference between water JBW produced and the total amount of water sold to customers or used for firefighting, flushing mains, flushing sewers street cleaning, backwashing, or other authorized consumption. He stated water loss may reasonably be attributed to leaks or inaccurate measurement of consumption. Mr. Seals stated that over the last five years, JBW's water loss values (after system usage) have ranged from 8.0% to 20.0%, with an increasing trend during this period. According to Mr. Seals, Applicant believes the cause of this increased water loss is leaking valves on customer service lines. He noted this was, to a certain extent, supported by pictures of three valves shown with water inside the riser. Applicant's increasing water losses, combined with its planned replacement of approximately 50 meters in JBW's system that are over 40 years old, prompted the issuance of a docket entry eliciting additional meter related information, including the age of Applicant's meters, the bulk rate at which Applicant anticipates acquiring replacement meters, Applicant's available funds, and the OUCC's position upon a Phase II increase in this proceeding for JBW to recover the cost of a more expansive meter replacement program.

Based on Applicant's docket entry responses, in addition to the 50 meters JBW plans to replace that are over 40 years old, another 32 meters on Applicant's system have been in service more than 20 years. JBW presently has 18 meters on hand to replace meters in service, and overall, 82 meters are to be replaced by December 2022. Over the last 10 years, approximately 10 meters have been replaced, and no meters have been tested and returned to service during this time period. In the OUCC's docket entry responses, the OUCC stated that while JBW's planned replacement of 50 meters over 40 years old will improve JBW's position with respect to compliance with 170 IAC 6-1-10, JBW is not in compliance with these meter testing and/or replacement guidelines. Also, while JBW's proposed repairs and meter replacements should prospectively improve JBW's water loss percentages, the OUCC recommended JBW use the American Water Works Association ("AWWA") "Water Audit Software v5.0" to help quantify and track the water losses associated with its water distribution system and identify areas for improved efficiency and cost recovery.

At the revised unit cost of $98.50 that JBW identified in its docket entry responses for new meters, based on Applicant's cash on hand, projected cash flow from operating income, and depreciation, the OUCC anticipates JBW will be able to purchase and install the 50 planned meters. If JBW chooses to inject additional capital or requests permission from the Commission to incur debt to finance additional bulk meter purchases, given the specific facts of this case, including JBW's very small size and very limited number of customers, the OUCC stated it would not oppose Commission approval of a Phase II rate increase in this matter to reflect in rate base the purchase and installation of additional meters beyond the planned 50 once these additional meters are installed and in-service. In its docket entry response, the OUCC recommended that before allowing JBW to implement such a Phase II increase, JBW be required to make a compliance filing showing the final amount for the meters to be included in rate base and certify that the meters were installed and are in service.

Mr. Seals testified that a resource the United States Environmental Protection Agency has developed entitled Rural and Small Systems Guidebook to Sustainable Utility Management ("Guidebook") has useful information for rural and small water systems. He recommended, at a minimum, that JBW work through Appendices 1 and 2 of the Guidebook to see whether Applicant might benefit from any of the Guidebook's practices and programs. In its rebuttal, JBW committed to review the Guidebook and determine whether any of its processes and procedures can be used in the future to benefit Applicant or its customers.

Mr. Seals also noted that in the 44115 U Order, Applicant was ordered to investigate the feasibility and cost of potential process improvements that would improve the quality of its water as well as the possibility of purchasing water from the City of La Porte. Mr. Seals stated that JBW complied with what was ordered by soliciting feedback from its customers upon their willingness to pay future rate increases to make process improvements that improve water quality and submitted a summary of its findings to the Commission on July 23, 2014 (later than the April 1, 2013, ordered deadline). Mr. Seals testified that Applicant's findings suggested process improvements to improve water quality (filtration) and to connect with the City of La Porte were not feasible or supported by Applicant's customers.

7. **Commission Discussion and Findings.** JBW agreed to all the OUCC's rate base adjustments, accepting on rebuttal the OUCC's recommended 60.18% increase in Applicant's operating revenues on an across-the board basis. The Commission finds the public interest is served by approving JBW's small utility filing, as modified by the OUCC's recommended adjustments; therefore, the Commission finds an across-the-board rate increase of 60.18%, to produce an annual revenue increase of $24,344, should be approved. For a residential customer with average monthly usage of 5,000 gallons, this results in an increase of $16.51 per month from $27.43 to $43.94 for Phase I.

Revenue Requirements	**Phase I**
Original Cost Rate Base	$10,882
Times: Weighted Average Cost of Capital	9.50%
Net Operating Income Required for Return on Rate Base	1,034
Less: Adjusted Net Operating Income	(16,847)
Net Revenue Requirement	17,881
Times: Gross Revenue Conversion Factor	136.1430%
Net Revenue Increase Required	$24,344
Recommended Percentage Increase	60.18%

Net Operating Income	**Phase I**
Operating Revenues	$64,797
Less: Operating Expenses	55,629
Depreciation	2,314
Taxes Other Than Income	5,417
Income Taxes	403
Net Operating Income	$1,034

Notwithstanding our findings above, however, the Commission has the following concerns: (a) JBW's water losses are trending upward around 20%; (b) Applicant has 50 meters on its system that are at least 40 years old and approximately 32 more that have been in service over 20 years, and (c) based on the evidence, JBW is not in compliance with 170 IAC 6-1-10.

JBW has only 119 customers, but at least 82 of its meters have been in service more than 20 years, with minimal testing over the last 10 years, exceeding the testing/replacement cycle set forth in 170 IAC 6-1-10. In responding to the docket entry, JBW stated these 82 meters will be replaced by December 31, 2022. The Commission finds that Applicant should proceed with doing so, especially given the OUCC's willingness, under the unique facts specific to this case, to not oppose approval of a Phase II rate increase in this Cause to reflect in Applicant's rate base the replacement meters once they are installed and in-service. We further find that because of the advanced age of the 50 oldest meters, their replacement should go forward as soon as possible, commencing in 2020. Given the updated cost per meter that JBW provided and the OUCC's data responses, we anticipate JBW being able to fund the cost of these 50 replacement meters with its current cash on hand, net operating income, and depreciation. In addition, the Commission approves an estimated 2.35% Phase II rate increase for JBW, to be trued-up based on Applicant's compliance filing, to reflect in rate base the additional meters once they are also installed and in-service; provided, JBW is not authorized to implement the Phase II increase until: (a) JBW makes a compliance filing that substantiates the final amount of the replacement meters to be included in its rate base; (b) certifies in its compliance filing that the meters were installed and are in-service, as the OUCC recommended; and (c) the Commission's Water and Wastewater Division approves the Phase II rate increase changes. The OUCC shall have 14 calendar days after JBW makes this compliance filing to review the Phase II calculation and make any objections or responsive filing. Also, because JBW is a small water utility, Applicant is encouraged to contact and work with the Commission's Water and Wastewater Division staff when calculating the Phase II rate increase if questions arise.

In addition, the Commission finds that to further help improve Applicant's water loss, JBW shall use the AWWA "Water Audit Software v5.0" to help quantify and track the water losses associated with its water distribution system and to help identify areas for improved efficiency, as the OUCC recommended, and shall annually conduct an AWWA water loss audit to aid in monitoring its non-revenue water. The Commission finds that as a matter of good utility practice, it is reasonable for JBW to also, at a minimum, work through Appendices 1 and 2 of the Guidebook to ascertain how Applicant may benefit from any of the Guidebook's practices or programs. Consistent with our approval of these OUCC recommendations, the Commission directs JBW to file written updates under this Cause as a compliance report on or before May 1 each year, commencing with May 1, 2021, and continuing through and including May 1, 2025, stating the total number of meters replaced during the prior calendar year, Applicant's capital improvements, and the actions JBW has taken to improve its water losses, including what, if any, practices or programs Applicant has implemented. In filing these compliance reports or other filings with the Commission such as its annual reports, JBW is encouraged to take greater care in assuring its financial and operating data is correct, as Mr. Seals recommended.

Finally, the Commission finds that although late, JBW complied with the 44115 U Order by soliciting its customers' feedback upon their willingness to pay future rate increases to make process improvements to improve water quality, investigating the feasibility of purchasing water from the City of La Porte, Indiana, and filing a summary of its findings.

8. Alternative Regulatory Program ("ARP"). If JBW elects to participate in the Small Utility ARP in accordance with the procedures approved in Cause No. 44203, the eligible operating expenses and Taxes Other Than Income to which the Annual Cost Index will be applied for Phase I are $55,629 and $5,417, respectively. All other components of JBW's revenue requirement will remain unchanged.

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

1. JBW is authorized to increase its rates and charges to produce additional revenues from rates of $24,344, a 60.18% increase in rate revenues, resulting in total pro forma annual rate revenue of $64,797. JBW is also authorized to implement a Phase II rate increase, subject to compliance with the conditions and filings set forth above in Finding No. 7.

2. Prior to implementing the authorized rates, JBW shall file the applicable rate schedules under this Cause for approval by the Commission's Water and Wastewater Division, and prior to implementing the rates authorized in Phase II, JBW shall make a compliance filing consistent with Finding No. 7 above for approval by the Commission's Water and Wastewater Division after the OUCC has an opportunity to review and file proposed corrections, adjustments, or objections based upon the timeline also set forth in Finding No. 7.

3. JBW shall work through Appendices 1 and 2 of the Guidebook with the objective of determining how Applicant may benefit from the Guidebook's practices and/or programs, and shall use the AWWA software to help quantify and track its water losses, annually conducting an AWWA water loss audit, as set forth above in Finding No. 7.

4. Annually, on or before May 1, commencing with May 1, 2021, and continuing through February 1, 2025, JBW shall file a compliance report under this Cause consistent with Finding No. 7.

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

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

APPROVED: APR 29 2020

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

Mary M. Becerra

Mary M. Becerra
Secretary of the Commission