

STATE OF INDIANA

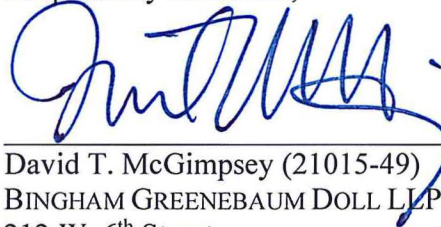
INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION)
OF BLOOMINGTON, INDIANA, FOR)
AUTHORITY TO ISSUE BONDS, NOTES,)
OR OTHER OBLIGATIONS, FOR)
AUTHORITY TO INCREASE ITS RATES) CAUSE NO. 44855
AND CHARGES FOR WATER SERVICE,)
AND FOR APPROVAL OF A NEW)
SCHEDULE OF WATER RATES AND)
CHARGES)

SUBMISSION OF JOINT STIPULATION AND SETTLEMENT AGREEMENT

The City of Bloomington, Indiana ("Petitioner"), by counsel, submits the Joint Stipulation and Settlement Agreement entered into by and among Petitioner, the Indiana Office of the Utility Consumer Counselor, and Washington Township Water Authority in this Cause.

Respectfully submitted,



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The City of Bloomington, Indiana

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were served this 6th day of January, 2017, by electronic mail to the following:

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An attorney for Petitioner,
The City of Bloomington, Indiana

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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JOINT STIPULATION AND SETTLEMENT AGREEMENT

On September 22, 2016, the City of Bloomington, Indiana (“Bloomington”) filed with the Commission its Petition initiating this Cause and its case-in-chief. The Indiana Office of the Utility Consumer Counselor (the “OUCC”) and intervenor Washington Township Water Authority (the “WTWA”), being all of the parties to this cause (Bloomington, the OUCC, and WTWA, collectively, the “Parties” and individually, a “Party”), have after arms-length settlement negotiations reached an agreement with respect to all of the issues before the Indiana Utility Regulatory Commission (the “Commission”) in this Cause. The Parties therefore stipulate and agree for purposes of resolving all of the issues in this Cause, to the terms and conditions set forth in this Joint Stipulation and Settlement Agreement (this “Settlement”).

1. Borrowing Authority.

- A. Approval of Debt; Authorization to Issue Bonds. The Parties stipulate and agree that the water utility revenue bonds (the “Bonds”) in a principal amount not to exceed \$4.6 million at interest rates not to exceed seven percent (7%) per annum and the long-term debt reflected on Bloomington’s balance sheet included in its case-in-chief should be approved. The Parties further stipulate and agree that Bloomington shall be authorized to issue the Bonds in an amount not to exceed the estimated \$4.6 million principal amount at interest rates not to exceed seven percent (7%) per annum as described in the testimony of Bloomington’s witness, John R. Skomp.

- B. Delayed Issuance of Bonds. If Bloomington does not issue the Bonds within four (4) months after it has filed a revised tariff with the Commission, it should temporarily reserve the funds collected in rates for its 2016 debt and use those funds to offset the amount it borrows.
- C. True-Up. Within thirty (30) days of closing on the Bonds, Bloomington shall file a report with the Commission and serve a copy on the OUCC and WTWA, explaining the terms of the new loan, including an amortization schedule, the amount of debt service reserve and all issuance costs. The report should include a revised tariff and also calculate the rate impact in a manner similar to the OUCC's schedules. Bloomington's rates should be adjusted to match its actual cost of debt service, whether lower or higher up to an interest rate of seven percent (7%) per annum.
- D. Debt Service Reserve. If Petitioner spends any of the funds from its debt service reserve for the Bonds for any reason other than to make the last payment on the Bonds, Bloomington shall provide a report to the Commission and the OUCC within five (5) business days describing the reasons for such expenditure.

2. Stipulated Rates and Revenues.

- A. Test Year Operating Revenues. The Parties stipulate and agree that Bloomington's adjusted test year operating revenue at present rates is \$14,461,114, as depicted on Schedule 4 to Public's Exhibit No. 1.
- B. Revenue Requirement. The Parties stipulate and agree that Bloomington's current rates and charges are inadequate and that Bloomington's rates and charges should be increased immediately upon the issuance of a Commission Order on an across-the-board basis by 20.15% so as to produce \$2,813,383 in additional annual operating revenue.
- C. Pro Forma Authorized Rates. After adjustments (including the issuance of the Bonds), the Parties stipulate and agree that Bloomington's pro forma test year operating revenues will be \$17,274,496, as shown in Schedule 4 to Public's Exhibit No. 1. The Parties further stipulate and agree that Bloomington's revenue requirements for the rate increase is depicted on Schedule 1 to Public's Exhibit No. 1. The Parties stipulate and

agree that the rate increases provided herein are just and reasonable and should be approved.

- D. Financial Schedules. The Parties stipulate for settlement purposes to the financial schedules included with Public's Exhibit No. 1.

3. Cooperation on Future Rate Design/Cost of Service Study. The Parties have been advised that it is Bloomington's intent to develop a general lifeline rate or another rate (a "Rate") and in so doing, to involve the OUCC, WTWA, and all classes of Bloomington's customers, including wholesale customers. Bloomington acknowledges that the Parties have not agreed in this Cause that Bloomington should be authorized to implement the Rate in its next case.

- A. Notice; Expected Timeline. If, prior to its next rate case, Bloomington elects to pursue a change in its rate design, based on a cost of service study ("COSS") or otherwise, which could result in a change in the rates paid by any of its existing customer classes, Bloomington agrees to notify the OUCC and WTWA within thirty (30) days of either retaining a cost of service consultant for purposes of such rate design work or initiating a cost study of the rate design/COSS. Within sixty (60) days of the earlier of the retention of a cost of service rate consultant or the initiation of a COSS, Bloomington agrees to provide a timeline to WTWA and the OUCC of the COSS work that includes, but is not limited to, the expected dates for the derivation of capacity factors and base allocations of plant.
- B. Communication. Bloomington agrees to be responsive to the reasonable informal requests for information from WTWA and the OUCC. The OUCC and WTWA will have the ability to offer comments and input during the rate design/COSS work at agreed-upon times during the process.
- C. Meeting. Bloomington and the OUCC agree to meet face-to-face on at least one occasion, but possibly otherwise as well, together with Bloomington's cost of service consultant to discuss Bloomington's proposed development of the Rate. Bloomington will provide WTWA reasonable notice of the time, date and place of such meeting, or meetings, and if WTWA desires, its representatives may attend such meeting, or meetings.

D. Final COSS. Upon completion of Bloomington's proposed rate design/COSS, Bloomington will furnish copies of same to the OUCC and WTWA pursuant to a reasonable nondisclosure agreement (the "NDA"). The OUCC and WTWA will upon request be provided with Bloomington's rate design/COSS materials so that they may be reviewed and evaluated by an independent rate design/COSS expert subject to the NDA.

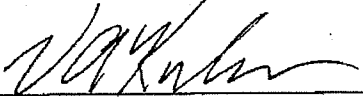
4. **Submission of Evidence.** The Parties stipulate to the admission into evidence in this Cause of the testimony previously filed (Bloomington's Case-in-Chief), and the Settlement Testimony of the OUCC and that of Vic Kelson and John R. Skomp on behalf of Bloomington. Further, each Party waives cross-examination of the other's witnesses with respect to such testimony. The Parties shall not offer any further testimony or evidence in this proceeding, other than this Settlement and the above-identified testimony and exhibits. If the Commission should request additional evidence to support the Settlement, the Parties shall cooperate to provide such requested additional evidence.
5. **Proposed Final Order.** The Parties stipulate and agree to the issuance by the Commission of the proposed order (the "Proposed Order") attached hereto and made a part hereof as Exhibit A. The Parties stipulate and agree that the terms of this Settlement and the findings and ordering paragraphs of the Proposed Order represent a fair, reasonable, and just resolution of all the issues in this Cause, provided they are approved by the Commission in their entirety without material change. All the terms and agreements contained in the Proposed Order are incorporated herein by reference and are accepted by each of the Parties as if fully set forth herein.
6. **Sufficiency of Evidence.** The Parties stipulate and agree that the evidentiary material identified immediately above constitutes a sufficient evidentiary basis for the issuance of the Proposed Order as a final order by the Commission adopting the terms of this Settlement, and granting the relief as requested herein by Bloomington and agreed to by the OUCC and WTWA.

7. **Commission Alteration of Agreement.** The concurrence of the Parties with the terms of this Settlement is expressly predicated upon the Commission's approval of this Settlement. If the Commission alters this Settlement in any material way, unless that alteration is unanimously and explicitly consented to by the Parties, this Settlement shall be deemed withdrawn.
8. **Authorization.** The undersigned represent that they are fully authorized to execute this Settlement on behalf of their respective clients or parties, who will be bound thereby.
9. **Non-Precedential Nature of Settlement.** The Parties stipulate and agree that this Settlement and the Proposed Order shall not be cited as precedent against the OUCC or Bloomington in any subsequent proceeding or deemed an admission by any party in any other proceeding, except as necessary to enforce the terms of this Settlement or the final order to be issued in this Cause before the Commission or any court of competent jurisdiction on these particular issues and in this particular matter. This Settlement is solely the result of compromise in the settlement process and, as provided herein, is without prejudice to and shall not constitute a waiver of any position that any of the Parties may take with respect to any or all of the items resolved herein in any future regulatory or other proceeding, and, failing approval by the Commission, shall not be admissible in any subsequent proceeding.
10. **Counterparts.** This Settlement may be executed in one or more counterparts (or upon separate signature pages bound together into one or more counterparts), all of which taken together shall constitute one agreement.

[SIGNATURES ON FOLLOWING PAGE]

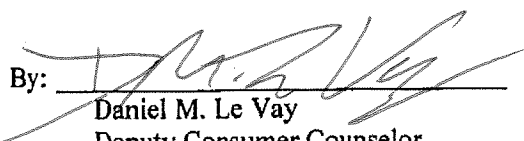
IN WITNESS WHEREOF, the parties have executed this Settlement on the dates set forth below.

City of Bloomington, Indiana
By and through the City of Bloomington Utilities Department

By: 
Vic Kelson
Director

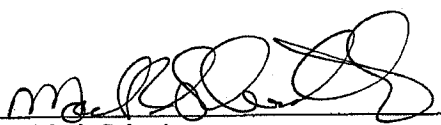
Dated: 1/6/2017

Indiana Office of the Utility Consumer Counselor

By: 
Daniel M. Le Vay
Deputy Consumer Counselor

Dated: 1/6/2017

Washington Township Water Authority

By: 
Mark Schmitter
General Manager

Dated: 1/6/2017

EXHIBIT A

to

Joint Stipulation and Settlement Agreement

Cause No. 44855

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION)	
OF PETITIONER, INDIANA, FOR)	
AUTHORITY TO ISSUE BONDS, NOTES,)	
OR OTHER OBLIGATIONS, FOR)	
AUTHORITY TO INCREASE ITS RATES)	CAUSE NO. 44855
AND CHARGES FOR WATER SERVICE,)	
AND FOR APPROVAL OF A NEW)	
SCHEDULE OF WATER RATES AND)	[Proposed Order]
CHARGES		

BY THE COMMISSION:

David Zeigner, Commissioner

Sarah Freeman, Commissioner

David Veleta, Administrative Law Judge

On September 22, 2016, the City of Bloomington, Indiana (“Petitioner”) filed with the Indiana Utility Regulatory Commission (“Commission”) its Petition for approval of a new schedule of rates and charges for utility service rendered by Petitioner’s waterworks and the issuance of up to \$4.6 million of waterworks revenue bonds to finance the costs of improvements and extensions to its waterworks utility. Additionally, Petitioner prefiled its testimony and exhibits constituting its case-in-chief on September 22, 2016, and a Stipulation to Procedural Schedule, Waiver of Prehearing Conference, and Issuance of Proposed Docket Entry Establishing Procedural Schedule entered into by Petitioner and the Indiana Office of the Utility Consumer Counselor (the “OUCC”), to which Washington Township Water Authority (“WTWA”) (Petitioner, the OUCC, and WTWA, collectively, the “Parties”) also consented.

On September 28, 2016, WTWA filed its Petition to Intervene in this Cause and its Request for Simultaneous Water Tracker. WTWA’s Petition to Intervene was granted by the Docket Entry issued by the Commission on October 18, 2016. Also, on October 18, 2016, the Commission issued its Docket Entry establishing the procedural schedule in this matter.

Pursuant to notice as provided by law, a public field hearing was held in this matter on November 28, 2016, at 6:00 p.m. at Tri-North Middle School Auditorium, 1000 W. 15th Street, Bloomington, Indiana. On December 15, 2016, the OUCC filed a motion to modify procedural schedule to extend filing dates for testing and to allow for settlement negotiations. On December 22, 2016, the Parties filed their Verified Joint Notice of Settlement and Motion to Amend the Procedural Schedule. On January 6, 2017, the Parties filed their Joint Stipulation Settlement Agreement (the “Settlement”) and testimony in support thereof.

Pursuant to notice given as provided by law, an evidentiary hearing was held in this matter on February 28, 2017, at 9:30 a.m. in Room 222 of the PNC Center, 101 West

Washington Street, Indianapolis, Indiana. At that hearing, Petitioner offered its prefiled testimony and exhibits, which were admitted into evidence without objection. The Settlement and testimony from each of the Parties in support thereof was also offered into evidence without objection.

Having considered the evidence and being duly advised in the premises, the Commission now finds that:

1. Notice and Jurisdiction. Notice of the time and place of the hearings conducted by the Commission in this Cause was given as required by law. Petitioner owns and operates a municipally owned utility providing water utility service to the public. Petitioner is subject to Commission jurisdiction as prescribed by Ind. Code § 8-1-2 and § 8-1.5-2-19 and § 8-1.5-3-8. The Commission has jurisdiction over Petitioner and the subject matter of this Cause.

2. Petitioner's Characteristics. Petitioner has approximately 25,000 customer accounts both within and outside its municipal corporate boundaries and serves Indiana University and nine (9) wholesale customers. Petitioner's customer base is comprised of residential, commercial, industrial and other customers. Petitioner's existing rates and charges for water utility service were approved by the Commission in Cause No. 43939 through the Order issued on March 2, 2011.

3. Test Year. The test year for determining Petitioner's current revenues and expenses incurred in providing service to the public is the 12-months that ended December 31, 2015, adjusted for changes that are representative of future operations and sufficiently fixed, known and measurable for ratemaking purposes. The Commission finds the test year selected is sufficiently representative of Petitioner's normal operations to provide reliable data for ratemaking purposes.

4. Requested Relief. Petitioner requested approval of an across-the-board, 22% rate increase. Petitioner further requested approval to issue waterworks revenue bonds in an amount not to exceed \$4.6 million to fund certain capital improvements to its waterworks system.

5. Petitioner's Case-in-Chief. Mr. Vic Kelson, Director of Petitioner's Utilities Department, provided an overview of the case on behalf of Petitioner. Mr. Kelson testified that the purpose of his testimony was to support the rate increase and capital projects, provide background on Petitioner's water utility, and provide a roadmap of Petitioner's case-in-chief.

Mr. Kelson testified that the proposed increase will provide the necessary revenue that will allow Petitioner to undertake the capital projects that Petitioner proposes to finance out of revenues and the proposed bonds. Petitioner's Exhibit 1, at 3. Mr. Kelson further testified that the rate increase will allow Petitioner to maintain its financial integrity, undertake needed infrastructure improvements, and comply with water quality standards. Id.

Although Petitioner elected to recover its depreciation expense, Mr. Kelson described the capital program Petitioner will undertake with the support of the rate increase. Capital

improvements needed within Petitioner's system include improvements needed to maintain water quality and to upgrade Petitioner's utility plant.

Mr. Kelson described Petitioner's water system, which contains a significant amount of pipe that is at least 75 years old. Petitioner inventoried that pipe on Petitioner's Attachment VK-2 and is developing a system to replace that infrastructure over the next 20 years. Id. at 11-12. Mr. Kelson testified that infrastructure replacement was required over rehabilitation in part because of the changed character of the customers served by the aging infrastructure. What were residential areas when the pipe was installed have been converted to commercial businesses and high-rise residential apartments geared toward serving Indiana University students. Id. at 10. The water pipes serving these areas needs to be replaced rather than rehabilitated because it will aid pressure, fire flows and also to the extent it is present, remove lead from Petitioner's system, as these oldest areas are the most likely to have lead. Id.

Mr. Kelson testified that the cost of the infrastructure replacement program over the first 5 years of the program will be \$9.5 million without accounting for natural price increases that will occur during that initial 5 year period. Id. at 11. Because Petitioner desires to begin the infrastructure replacement program as quickly as possible, it proposes to use \$2.3 million in bond proceeds for the initial investment in its infrastructure replacement program, as the rate increase would not generate significant revenues by the time construction season began. Id. at 10-11. The remaining \$7.2 million would be funded at a level of \$1.8 million per year out of utility revenues over the next 4 years. Id. at 11.

The remaining capital improvement related to its proposed bond issuance is a \$1.8 million water main relocation project on Fullerton Pike according to Mr. Kelson. Mr. Kelson testified that the Fullerton Pike project takes advantage of a partial reimbursement from Monroe County as a result of a county road improvement project. Id. at 13. The Fullerton Pike project had been identified in Petitioner's long range capital plans and leveraging the county money from the relocation allows Petitioner to maximize its investment on the Fullerton Pike project. Id. at 14.

Mr. Kelson also testified that Petitioner also met with the OUCC's office before filing its case-in-chief to get the OUCC's input into its case and that Petitioner complied with all statutory notice requirements. Id. at 22.

Petitioner's elected Mayor, John Hamilton, also testified in support of the proposed rate increase. The purpose of Mayor Hamilton's testimony was to provide testimony on public policy and the rationale behind the rate increase, including justification for the size of the rate increase. Mayor Hamilton testified that the rate increase promotes the fiscal sustainability of the utility, the environmental compliance and the replacement of aging infrastructure. Petitioner's Exhibit 2, at 3-4. Moreover, he testified that the rate increase is reasonable. Id. at 4-5.

Finally, Mayor Hamilton testified on his desire to implement a general lifeline rate design in a future rate case for Petitioner. Id. at 5-6. Mayor Hamilton testified that a general lifeline rate design would likely not impact Petitioner's conservation efforts and indicated a general lifeline rate could actually spur conservation. Id. at 6-7. Mayor Hamilton contrasted his desire for a

general lifeline rate with the targeted lifeline rate designs that the Commission has rejected in the past. Id. at 7.

Common Council and Utilities Service Board (“USB”) member Timothy Mayer also testified on behalf of Petitioner. Mr. Mayer is the Common Council representative to the USB. The USB governs Petitioner’s Department of Utilities. Mr. Mayer is an *ex officio*, non-voting member of the USB. Mr. Mayer sponsored the USB’s resolution recommending a 22% rate increase to the Common Council and the ordinances adopting the rate increase and authorizing the issuance of bonds. Petitioner’s Exhibit 3, Attachments TM-1, -2 and -3.

Mr. Mayer explained that the USB has general supervisory power over Petitioner’s water utility and recommends rates and charges to the Common Council for the utility. He testified that the Common Council is ultimately responsible for adopting the rates recommended by the USB. Mr. Mayer testified that the USB undertook a proactive approach to the process and worked with consultants to determine an appropriate increase. Petitioner’s Exhibit 3, at 3. He also testified that the USB and the Common Council received public input during its deliberation process. Id. at 4-5.

Mr. Mayer further testified that throughout the rate adjustment process, he provided updates to the Common Council and that the Common Council also discussed the rate increase at several meetings. Id. at 5. He testified that the Common Council voted unanimously to approve a 22% rate increase. Id. at 6.

John R. Skomp, a CPA with Crowe Horwath LLP, testified on behalf of Petitioner concerning the utility’s proposed rates and financing. Mr. Skomp testified that the test year for the utility is the 12 months that ended December 31, 2015. Mr. Skomp presented a statement of income and an adjusted statement of income that summarized the adjustments detailed in the statement of income part of his Rate and Financing Report. Petitioner’s Exhibit 4, Attachment JRS-1. Mr. Skomp testified that Petitioner petitioned for a 22% rate increase even though a 22.45% rate increase could be justified with the Rate and Financing Report. Petitioner’s Exhibit 4, at 5.

Mr. Skomp testified that the utility’s total annual revenue requirement is \$17,514,877. Petitioner’s Exhibit 4, at 12. Mr. Skomp testified that the proposed bonds are a reasonable and appropriate method of financing the capital projects proposed by Petitioner.

6. Settlement Agreement and Settlement Testimony.

A. The Settlement. The Settlement filed with the Commission, which is attached to this Order, provided the terms and conditions upon which the Parties agreed with respect to the issues presented by Petitioner in its case-in-chief. Among other things, the Parties were able to agree to specifics concerning Petitioner’s rates and charges and the issuance of water utility revenue bonds.

The Parties stipulated and agreed that Petitioner’s adjusted test year operating revenues were \$14,461,114, and that Petitioner’s current rates and charges are inadequate. The Parties

further agreed to a revenue requirement for Petitioner of \$17,235,110, which necessitates a required increase from *pro forma* test year revenues at current rates of \$2,813,383. The Parties agreed that a 20.15% across-the-board increase in Petitioner's rates and charges is merited and should be approved.

Further, the Parties agreed that Petitioner's proposed \$4.6 million in principal amount of water utility revenue bonds and long-term debt reflected in its case-in-chief should be approved and that that Petitioner should be authorized to issue up to \$4.6 million in principal amount of water utility revenue bonds subject to true-up and at an interest rate not to exceed seven percent (7%) per annum. The Parties further agreed that if the proposed bonds are not issued within four (4) months after the Petitioner files its revised tariff for water utility service that the Petitioner should reserve the revenues collected for debt service for the proposed bonds and offset the principal amount of the proposed bonds by the amount of funds being so reserved. The Parties further agreed that Petitioner would true-up its rates, lower or higher, if needed, after the proposed bonds are issued to reflect the actual costs associated with the proposed bonds.

B. Petitioner's Settlement Testimony. In support of the Settlement, Petitioner filed the settlement testimony of Mr. Kelson and Mr. Skomp. Mr. Kelson testified that the Settlement is a reasonable resolution of the issues in this Cause. He also testified that accelerating the resolution of this Cause will allow Petitioner to expedite its infrastructure replacement program, take advantage of at least a portion of the construction season, and begin process improvements and other infrastructure upgrades in Bloomington's system, as well as minimize the regulatory lag associated with a new schedule of rates and charges. Petitioner's Exhibit 5, at 2.

Mr. Skomp's settlement testimony supported the Settlement. He testified that interest rates are rising and consequently, resolving this case sooner would likely provide benefits exceeding any lost revenue of Petitioner not obtaining the full extent of its requested increase by allowing Petitioner to issue the bonds at a lower interest rate than might be had if Petitioner fully litigated this case. Petitioner's Exhibit 6, at 2-3.

C. OUCC's Settlement Testimony. The OUCC filed the settlement testimony of Charles E. Patrick, Carl N. Seals and Edward R. Kaufman. Each supported the Settlement and testified that the Settlement is reasonable and in the public interest.

Mr. Patrick discussed how the settled upon accounting adjustments differed from the accounting adjustments in Petitioner's case-in-chief. He testified the differences between Petitioner's case-in-chief and the Settlement are attributable to five adjustments: a below-the-line revenue adjustment, a residential customer growth revenue adjustment, several operation and maintenance-related expense adjustments, a depreciation adjustment, and a utility receipts tax and payments in lieu of taxes adjustments.

For the below-the-line revenue adjustments, Mr. Patrick testified the parties agreed that contractor income should offset Petitioner's revenue requirement by \$40,233. For the customer growth revenue adjustment, he testified that Petitioner's pro form revenues should be adjusted pursuant to the Settlement by an additional \$24,350, which when taken in combination with

Petitioner's proposed billing error adjustment of \$200,881, resulted in a pro forma operating revenue adjustment of \$225,231.

Mr. Patrick testified that operation and maintenance costs were agreed to be adjusted through purchased power, chemicals, and billing expenses for customer growth, as well as adding bad debt expense. Further, the parties agreed to adjust operation and maintenance expenses for disallowance of \$3,327 of expense for customer outreach (booth rental fee, refillable water bottle giveaways and laminated top for water station) that the OUCC deemed not allowable, \$959 for non-recurring mold assessment, and \$100,331 of expensed items that the OUCC believes should be capitalized. Rate case expense of \$48,000 was also removed from operation and maintenance expense as an adjustment.

Mr. Patrick testified that the parties agreed to adjust Petitioner's proposed depreciation expense by decreasing it \$10,378. The parties further agreed, Mr. Patrick explained, that Petitioner's as adjusted utility plant in service amount (after adding in the disallowed expenses reassigned to capital items) is \$137,791,357, which when multiplied by the 2.0% composite depreciation rate, yields pro forma depreciation expense of \$2,755,827.

Finally, Mr. Patrick testified the parties agreed to adjustments to utility receipts tax (pro forma increase of \$5,078) and payments in lieu of taxes (pro forma level of \$307,326, or a \$47,327 decrease from test year payments in lieu of taxes), in addition to certain capital lease issues.

Mr. Seals testified concerning the capital improvement program proposed by Petitioner. Mr. Seals recounted the three categories of Petitioner's projects and identified certain specific projects. He testified that the main replacement program is a dynamic program that would extend over 20 years and be funded partially through bond proceeds. The other proposed bond-funded project is the Fullerton Pike project identified by Petitioner, Mr. Seals noted. He also testified that the process improvements Petitioner proposes are critical for Petitioner's efforts to control disinfection byproducts. Finally, Mr. Seals testified that Petitioner's proposed capital improvement program is reasonable and necessary and supports Petitioner's request for financing approval.

Mr. Kaufman testified concerning Petitioner's proposed bond issue. He testified that the parties settled on a maximum amount of \$4,575,000 in bond proceeds, which issuance would be capped at a 7% interest rate. Mr. Kaufman further testified that the parties agreed that if Petitioner does not issue the bonds within four months, then Petitioner would reserve the revenues attributable to the bond issue and use those funds to reduce its debt service reserve. Mr. Kaufman testified the parties also agreed to a true-up mechanism and to a provision that Petitioner would notify the OUCC and the Commission were it to use its debt service reserve for any purpose other than making the last payment on the bonds. Finally, Mr. Kaufman testified as to certain capital lease issues.

D. WTWA's Settlement Testimony. In support of the Settlement, WTWA filed the settlement testimony of Mark Schmitter, its General Manager. Mr. Schmitter testified in support of the Settlement and indicated that the Settlement would allow Bloomington to begin needed infrastructure projects sooner than it would otherwise be able to in a fully litigated proceeding.

He testified the Settlement resolved the issues in the Cause in an acceptable manner to WTWa and that WTWa, as a wholesale customer of Bloomington, wanted Bloomington to continue investing in Bloomington's system to ensure a safe and reliable supply of drinking water. He further testified the Settlement is reasonable and in the public interest.

9. Applicable Law. Ind. Code § 8-1.5-3-8(a) states, "A municipality owning a utility under this chapter shall furnish reasonably adequate services and facilities." Ind. Code § 8-1.5-3-8(c) provides, "Reasonable and just rates and charges for services" means rates and charges that produce sufficient revenue to:

- (1) Pay all the legal and other necessary expenses incident to the operation of the utility, including:
 - (A) Maintenance costs;
 - (B) Operating charges;
 - (C) Upkeep;
 - (D) Repairs;
 - (E) Depreciation;
 - (F) Interest charges on bonds or other obligations, including leases; and
 - (G) Costs associated with the acquisition of utility property under IC 8-1-5.2;
- (2) Provide a sinking fund for the liquidation of bonds or other obligations, including leases;
- (3) Provide a debt service reserve for bonds or other obligations, including leases, in an amount established by the municipality, not to exceed the maximum annual debt service on the bonds or obligations or the maximum annual lease rentals;
- (4) Provide adequate money for working capital;
- (5) Provide adequate money for making extensions and replacements to the extent not provided for through depreciation in subdivision (1); and
- (6) Provide money for the payment of any taxes that may be assessed against the utility.

10. Commission Discussion and Findings. Pursuant to the Commission's procedural rules and prior determinations, a settlement agreement will not be approved by the Commission unless it is supported by probative evidence. 170 IAC 1-1.1-17. Settlement agreements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406.

Furthermore, any Commission decision, ruling or order – including the approval of a settlement – must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). Therefore, before the Commission can approve the Settlement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the

Settlement is reasonable, just and consistent with the purpose of Ind. Code § 8-1-2 *et seq.*, and that such agreement serves the public interest.

Upon review of the evidence of record, the Commission finds that Petitioner's proposed capital improvement plan is reasonably necessary to remedy the issues with Petitioner's current water treatment and transmission facilities and supported by the evidence. Expanded water treatment and transmission facilities will also enable Petitioner to provide adequate services in accordance with Ind. Code § 8-1.5-3-8. The Commission also finds that the proposed bond issue in an amount not to exceed \$4.6 million and at an interest rate not to exceed seven percent (7%) per annum is a reasonable manner in which to finance the capital improvements and that the proposed bond issue should be approved subject to the conditions and limitations agreed to by the parties approved herein.

Thus, the Commission finds that Petitioner's current rates and charges are inadequate to provide for Petitioner's annual revenue requirement, and based upon the evidence presented, the Commission finds that the net revenue increase required for Petitioner's municipally owned utility is \$2,813,383.

The parties settled on an across-the-board 20.15% rate increase, which the Commission finds reasonable. *Pro forma* test year operating revenues at the proposed rates will be \$17,274,496, and Petitioner's net revenue requirements are illustrated below:

Revenue Requirements

Category	Agreed Amount
Operation and Maintenance Expense	8,094,907
Taxes other than income	691,679
Depreciation Expense	2,755,827
2013 Capital Lease Payment	32,823
2014 Capital Lease Payment	53,549
Working Capital	-
Debt Service	5,646,558
Debt Service Reserve	-
Total Revenue Requirement	17,275,343
Less: Interest Income	-
Other Income	(40,233)
Add: Other Expenses	-
Net Revenue Requirement	17,235,110
Less: Revenue at Current Rates	(13,961,231)
Other revenues at Current Rates	(499,883)
Net Revenue Increase Required	2,773,996
Divide by Revenue Conversion Factor	0.986
Required Increase	\$ 2,813,383
Calculated Percentage Increase	20.15%

The Commission, having reviewed the evidence, determines that it is ample to support the Settlement. The Settlement addresses the issues described above and reasonably resolves them. Specifically, the Settlement provides Petitioner with sufficient operating revenues to undertake its capital improvements and to provide adequate service pursuant to Ind. Code § 8-1.5-3-8. The Commission finds that the Settlement, which is attached to this Order, is reasonable, just and in the public interest. Therefore, the Settlement is hereby approved.

The Parties agreed in the Settlement that the Settlement should not be used as an admission or as precedent against the Parties in any other proceeding, except to the extent necessary to implement or enforce its terms. Consequently, in regard to future citation of the Settlement, the Commission finds that our approval herein should be construed in a manner consistent with the Commission's findings in *Richmond Power & Light*, Cause No. 40434 (*Ind.Util. Reg. Comm'n*, March 19, 1997).

11. True Up. As discussed previously, the actual cost of debt service will not be known precisely until sometime after Petitioner issues its proposed bonds. Within thirty (30) days of closing on the proposed bonds, Petitioner shall file a true up report with the Commission and serve a copy thereof on the parties of record. The true up report shall use the same calculation methodologies used to calculate the revenue requirement agreed to by the parties. The true up report shall provide the following information: the actual principal amount borrowed, the interest rate, the term of the bonds, the actual average annual debt service requirements, the actual average annual debt service reserve requirement and the impact that any difference would have on Petitioner's rates and charges.

If the average annual debt service requirements are lower than those provided for in the authorized rates and the OUCC or WTWa deems the difference to be material, the OUCC or WTWa shall have fifteen (15) days from service of Petitioner's true up report in which to request that Petitioner file an amended tariff giving prospective effect to Petitioner's actual average debt service requirements, to take effect at the start of Petitioner's next billing cycle. Petitioner has agreed not to oppose such a request, if made by the OUCC or WTWa. Petitioner shall file its amended tariff within fifteen (15) days of receiving such a request from the OUCC or WTWa and in accordance with Ordering Paragraph 3.

Further, if the average annual debt service requirements are higher than those provided for in the authorized rates and Petitioner deems the difference to be material, Petitioner shall so state in its true up report and shall file an amended tariff.

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

1. The Settlement is approved consistent with Finding Paragraph 10 hereof.
2. Petitioner shall be and hereby is authorized to increase its rates and charges for water utility on an across-the-board by 20.15% over adjusted test year revenues in order to increase annual operating revenues by \$2,813,383 so as to produce total annual operating revenues of \$17,274,496.

3. Petitioner shall file with the Commission's Water/Sewer Division new schedule of rates and charges before placing into effect both rate increases and the new schedule of connection charges authorized herein, which schedules, when approved by the Water/Sewer Division shall be effective and shall cancel all previously approved schedules of rates and charges.
4. Petitioner shall be and hereby is authorized to issue waterworks revenue bonds in an amount not to exceed \$4.6 Million and at an interest rate not to exceed seven percent (7%) per annum as provided in Finding Paragraph Nos. 10 and 11 hereof.
5. Petitioner shall pay the following itemized charges within twenty (20) days of the date of this Order into the Treasury of the State of Indiana, through the Secretary of the Commission:

[INSERT CHARGES]

6. In accordance with Ind. Code § 8-1-2-85, Petitioner shall pay to the Secretary of the Commission twenty-five cents (\$0.25) for every one hundred dollars (\$100) of financing proceeds received. This payment shall be made within thirty (30) days of the receipt of the financing proceeds authorized herein.
7. Petitioner shall file the true up report as provided in Finding Paragraph No. 11 hereof.
8. This Order shall become effective on and after the date of its approval.

FREEMAN, HUSTON, WEBER AND ZIEGNER CONCUR:

APPROVED:

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

Mary M. Becerra
Secretary to the Commission