

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE CITY OF EAST CHICAGO,)
INDIANA FOR AUTHORITY TO ISSUE)
BONDS, NOTES, OR OTHER OBLIGATIONS)
FOR AUTHORITY TO INCREASE ITS RATES) CAUSE NO. 44826
AND CHARGES FOR WATER SERVICE, AND)
FOR APPROVAL OF NEW SCHEDULES OF)
WATER RATES AND CHARGES.)

REVISED
JOINT PROPOSED ORDER OF THE CITY OF EAST CHICAGO AND THE OUCC

BY THE COMMISSION:

David E. Ziegner, Commissioner

Aaron A. Schmoll, Senior Administrative Law Judge

On August 4, 2016, the City of East Chicago, Indiana (“East Chicago,” “Utility,” or “Petitioner”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) in this Cause. In its Petition, East Chicago requested that the Commission issue a final order in this Cause: (1) authorizing an increase in Petitioner’s rates and charges for water service as requested by Petitioner; (2) approving the establishment of new schedules of water rates and charges applicable thereto, with such schedules properly to reflect and establish the proposed rate increase; (3) approving the issuance of bonds, notes, or other obligations of indebtedness; and (4) making such other and further orders as the Commission may deem appropriate and proper. East Chicago also filed direct testimony and exhibits in support of its Petition.

Pursuant to IC 8-1-2-61(b), the Commission held a field hearing at East Chicago’s City Council Chambers on November 17, 2016 at 6:00 p.m. CST, for purposes of receiving oral and/or written comments from members of the public.

Pursuant to notice as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, an evidentiary hearing was held in this Cause on January 19, 2017, at 9:30 a.m. EST in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. The parties to this proceeding, other than East Chicago, included the Indiana Office of Utility Consumer Counselor (“OUCC”) and the City of East Chicago Industrial Group (composed of Arcelor Mittal USA, Praxair, Inc., USG Corporation, and US Steel Corporation) (“Industrial Group”). The Industrial Group was granted status as an Intervenor at the field hearing. The Parties’ testimonies and exhibits were admitted into evidence without objection. No member of the public appeared at the January 19 hearing.

Prior to the deadline for the OUCC and the Industrial Group to respond to East Chicago's case-in-chief, the OUCC and Petitioner entered into a Stipulation and Settlement Agreement ("Settlement Agreement" or "Settlement"). As a result of this development, the OUCC and the Industrial Group declined to file responsive testimony to East Chicago's case-in-chief. Petitioner and the OUCC filed the Settlement Agreement and supporting testimony on December 22, 2016. The Industrial Group filed testimony in opposition to the Settlement, and East Chicago and the OUCC filed additional, responsive testimony in support of the Settlement Agreement.

Based upon applicable law and the evidence presented herein, the Commission finds as follows:

1. Notice and Jurisdiction. Petitioner is a "municipally-owned utility" as defined in IC 8-1-2-1(h). Due, legal, and timely notice of the evidentiary hearing in this Cause was given and published by the Commission as required by law. Under Indiana Code 8-1.5-3-8(f)(2), the Commission has jurisdiction over changes to East Chicago's water utility rates and charges. In addition, Indiana Code 8-1.5-2-19 requires Commission approval before East Chicago may issue debt to fund improvements to the water utility when water utility assets or revenues are pledged as collateral for such debt as East Chicago has proposed here. Therefore, the Commission has jurisdiction over the parties and the subject matter of this proceeding.

2. Petitioner's Characteristics. Petitioner is a municipality that owns and operates plant and equipment within the State of Indiana for the production, transmission, delivery, and furnishing of water to the public within and around the City of East Chicago, Indiana. Petitioner serves a population of approximately 30,000 with approximately 8,000 customers. Petitioner's existing schedule of water rates and charges are approved pursuant to Commission Orders dated November 9, 2005, and April 6, 2006, in Cause No. 42680.

3. Relief Requested. East Chicago's Petition requests authority to issue \$18 million in new revenue bonds to fund capital improvements to its water system. East Chicago also requests authority to increase its rates and charges on an across-the-board basis.

4. Test Year. The test year used by Petitioner for determining Petitioner's annual revenue requirement in this Cause was the 12 months ended December 31, 2015, with adjustments for changes which are fixed, known, and measurable and which will occur within 12 months of the close of the test year. We find this test year, as adjusted, to be sufficiently representative of Petitioner's ongoing operations to be used for ratemaking purposes.

5. The Parties' Evidence.

A. East Chicago's Case-in-Chief

1. Gregory Crowley

East Chicago's Director of Utilities Gregory Crowley testified about Petitioner's facilities, operating expenses, and necessary improvements. He began serving as the Director of Utilities in September 2013.

Mr. Crowley noted that East Chicago last petitioned for a rate increase in 2004, more than a decade ago, and that it has some of the lowest average monthly bills of regulated water utilities, even with the requested rate increase. Mr. Crowley testified that the Utility has been losing money for a number of years and that the rate increase is crucial.

Mr. Crowley also testified to the construction of a \$52 million new water treatment and filtration plant ("New Plant") to replace the 1965 conventional filtration plant ("Old Plant"). Construction of the New Plant was financed in large part by a 2009 State Revolving Fund ("SRF") loan in the amount of \$27,200,000 supported by gaming revenue. Mr. Crowley clarified that East Chicago is not seeking at this time to recover that \$27,200,000 capital expense. He explained that the new membrane filtration plant is a state-of-art water treatment plant designed to filter water down to .02 microns, which exceeds current environmental standards. This is the first such plant built in the State of Indiana, but it is not new technology. Mr. Crowley explained the status of the New Plant's performance testing. He testified that the New Plant is expected to provide reliable and high-quality drinking water for East Chicago residents for a substantial time into the future.

Mr. Crowley testified that East Chicago's capital improvement plan ("CIP"), for which it is seeking funding, involves the construction of additional storage facilities, meter replacement/upgrades, hydrant repair and replacement, integration of a leak detection system, water main valve replacements, a lead/copper line replacement program, demolition of the old treatment plant, and related waterworks improvements.

Mr. Crowley testified in detail about these projects. He explained that two new storage tanks are necessary because of the need to relocate storage currently located at the Old Plant as well as the need for the additional storage. He further explained the need to convert customer meters and install new meters with radio frequency ("RF") technology and automated metering infrastructure ("AMI") capabilities. Mr. Crowley testified to his view that many of the Department's old and outdated meters contribute to billing problems and water line loss. Transitioning to AMI will allow the Department to access more advanced and up-to-date data on a daily basis. Mr. Crowley testified to the status of the Utility's meter replacement program, which began in 2011. He opined that the meter replacement program is vital to making the entire system more efficient. Mr. Crowley further testified that the Department intends to repair or replace some hydrants and to install hydrant locks on certain hydrants. The Utility also intends to install a bulk water dispensing station to help control the process to obtain bulk water. Mr.

Crowley further explained that the CIP includes a valve exercising program and a leak detection survey to address lost water concerns.

Mr. Crowley outlined Petitioner's proposed lead pipe replacement program. Petitioner is aware that some of the service pipes in the Utility's system are lead pipes and that there are lead pipes within some of the customers' property. Mr. Crowley testified that Petitioner is developing a program to replace lead pipes that are owned by the Utility as well as pipes inside homes. He indicated that, at the time of his testimony, the Utility intended to subsidize the replacement program in customer homes and anticipated a 50/50 match of the Utility's money and customer payment.

Mr. Crowley also testified that after the New Plant is fully operational, the Old Plant will be demolished, and so the CIP includes funds related to the demolition expense.

Mr. Crowley testified that the projects set forth in the CIP are the best estimate of improvements needed in the next five years and that the costs were also estimates but based on careful analysis, including meetings with vendors. Mr. Crowley explained that the Utility currently does not have a separate "rainy day" fund to address extraordinary and unexpected expenses. He testified that Petitioner intends to seek funds to finance the CIP through revenue bonds issued through the SRF Drinking Water Fund. Mr. Crowley also provided estimates for the usage of purchased power, natural gas, and chemical expense, with necessary adjustments. Mr. Crowley provided this information to Mr. Dixon for calculations of the related expenses.

Mr. Crowley acknowledged that the Department's requested 55% rate is a significant increase on a percentage basis, but, after working closely with the Utility's accountants over the past several months, Petitioner determined that the rate increase is necessary for two primary reasons. First, the Department has operated at a loss for a number of years and that alone is unsustainable. Second, the Department must implement the capital projects described to ensure safe, reliable, and efficient water supply to customers.

2. Patricia Bodnar

The Manager of the Water Department, Patricia Bodnar, testified as to how the Department intends to address certain billing issues through the meter replacement program.

Ms. Bodnar testified that certain complications and discrepancies in the billing system relate to inaccurate meter readings and estimated readings, much of which relates to the current meter infrastructure. She explained that East Chicago has multiple different types and brands of meters in use—some meters are pit meters, some are touchpad meters, and some are RF technology. Ms. Bodnar testified that pit meters are especially time-consuming and difficult to read manually, especially in the wintertime, and constitute roughly 20% of the system.

Ms. Bodnar explained that if meter readers are unable to complete their assigned meter reads in the billing cycle, then bills have typically been estimated. Estimated bills are less reliable than actual reads and can also result in highly variable bills when an actual read is ultimately taken.

Given these concerns, Ms. Bodnar testified to her belief that it is critical to move to a system of uniform meters with AMI that will enable Petitioner to obtain automatic reads and daily usage data, which will provide highly accurate and reliable information for billing purposes and create efficiency. Ms. Bodnar testified that the Department will transition to automated readings as quickly as possible, utilizing drive-by RF technology in the meantime to the extent possible.

Ms. Bodnar further testified to other billing matters and noted that Petitioner is developing an online link where the newly approved tariff will be posted.

3. Ted Sommer

Mr. Ted Sommer, a Partner with the Accounting Firm of London Witte Group, LLC (“LWG”), presented accounting testimony on behalf of the Utility. According to Mr. Sommer, LWG was retained by the Utility’s Water Board to prepare and present LWG’s recommendation related to the sufficiency of the current water rates and charges. If these charges were found to be insufficient, Mr. Sommer was to present to the Commission a request to increase such rates and charges. Mr. Sommer stated that he utilized a test period of the twelve months ending December 31, 2015, which, when combined with the appropriate pro forma revenue and expense adjustments, was fairly representative of current and future operations of the water department.

Mr. Sommer stated that, in his opinion, an increase in excess of 100% is justified. He said that after discussion with Utility administration officials, it was determined to limit the requested increase to 55%. Mr. Sommer explained that the primary drivers of the increase are: (1) mounting cash deficits that need to be halted, (2) the need for a \$16,545,000 bond issue for various capital projects, and (3) the need to repay inter-fund borrowings, replenish the Tank Painting Fund and rebuild cash reserves. Mr. Sommer cited Mr. Crowley’s testimony as describing the various projects to be financed with the bond issue. However, he pointed out that, in his opinion, the lead pipe replacement program required particular attention.

Mr. Sommer sponsored Schedule A-which provides Fund Activity and Balances for the year ended December 31, 2015. According to Mr. Sommer, that Schedule shows that the Water Department transferred \$1,325,000 into the Operating Fund from sources other than Operation Revenues to meet expenses. He pointed out that \$825,000 of that transfer came from the Tank Reimbursement Fund, leaving that fund with a balance of \$98,194. Even with this transfer, the ending balance of the Operating Fund was a deficit of \$71,553. Mr. Sommer also sponsored detailed schedules showing the balances of the Bond and Interest Fund, the Improvement Fund and the Tank Refurbishment Fund.

Mr. Sommer testified that the delay in filing for a rate increase was tied into the construction and operation of the New Plant. The design of the New Plant began in late 2006. The Utility used most of a \$16,600,000 2006 SRF loan to design and build the New Plant. The Utility also used the proceeds of the 2009 SRF loan of \$27,200,000 to construct the New Plant. The latter loan has been paid through gaming revenues. Mr. Sommer stated that the original in service date of September 1, 2007 was delayed due to operational and design problems. While a solution was sought for these problems, the Old Plant continued to operate at ever increasing

costs. According to Mr. Sommer, it did not make sense to file for a rate increase while the design and construction problems surrounding the New Plant remained unresolved. The New Plant is now close to full operation with the operating expenses more certain. For these reasons, Mr. Sommer believed that the timing for a rate increase was appropriate. Mr. Sommer testified that the Utility did not seek the fully justified 100% rate increase because of rate shock.

Mr. Sommer also sponsored Exhibit B within Attachment TS-2 in order to present information on the current revenue shortfall and the proposed increase to current revenues. He stated that the first column on Exhibit B demonstrates a revenue shortfall in current operations of \$1,093,632 per year. Exhibit B then shows the impact of various proforma adjustments such as purchased power and natural gas expenses, expenses related to salaries, debt service, Payment in Lieu of Taxes (“PILT”) and depreciation expense. Mr. Sommer stated that Exhibit B shows that the Utility could request a PILT expense of \$1,232,767. Mr. Sommer noted that the Utility was only requesting a PILT expense level of \$600,000. Likewise, Mr. Sommer stated that the Utility is requesting a depreciation expense of \$803,000, even though it could have requested an expense level of \$1,354,948. Mr. Sommer concluded from his discussion of Exhibit B that the adjusted increase resulting from adjusted revenues and expenses was \$2,586,725 or 55%.

Mr. Sommer testified that the Utility was proposing an across-the-board increase rate design. This proposal will cause a residential user of 4,000 gallons to see their monthly bill increase by \$5.97 from \$10.86 to \$16.83. Mr. Sommer also noted that the Utility is proposing a bulk water rate of \$8.00 per one thousand gallons. He explained that the Utility will build a \$60,170 Pre-Fabricated Bulk Water Station. According to Mr. Sommer, the Utility determined that bulk water rates fall within a range of \$7-\$10 per one thousand gallons. Mr. Sommer decided to set the Bulk Water Rate at the low end of this range with a two thousand gallon minimum.

4. Joseph Dixon

Mr. Joseph Dixon is a CPA with LWG who sponsored Direct Testimony on behalf of East Chicago. His testimony discussed the pro-forma electric, natural gas and chemical costs for the New Plant, other facilities and the water tank. He noted that the test year costs for electric and chemicals included amounts for the operation of the old water treatment plant, as well as the New Plant. He said that his adjustments remove the costs directly attributable to the old plant and included only a level of estimated costs for the New Plant.

Mr. Dixon testified that he utilized estimates of electric and natural gas consumptions at the New Plant as provided by Mr. Crowley. Using current electric rates, Mr. Dixon estimated that the New Plant would incur monthly electric expense in the annual amount of \$771,955.26. Using natural gas consumption numbers provided by Mr. Crowley, Mr. Dixon estimated that the New Plant would consume an annual average cost of \$29,330.18. According to Mr. Dixon, his total electric and natural gas costs for the New Plant equals \$801,285 which results in a pro forma decrease of \$288,596. Mr. Dixon estimated the annual chemical costs for the New Plant to be \$190,624.

B. Settlement Agreement

Before the OUCC filed its case-in-chief, the OUCC and Utility reached an agreement in principle and later, on December 22, 2016, filed a Settlement Agreement. The Settlement Agreement provides that the Utility be authorized to increase its rates and charges to reflect ongoing revenue requirements in the amount of \$7,545,204, resulting in an annual increase of \$2,586,725, as adjusted by the revenue conversion factor, or a rate increase of 55%. As described further below, the Settlement Agreement provided for certain adjustments to the characterization of expenses and a reduction of the debt issue with the SRF to approximately \$14,900,000, to reflect the re-characterization of certain expenses and a portion of the capital improvements program.¹ The Settlement is attached to this order, and a summary of the annual revenue requirements and revenue is below:

Annual Revenue Requirements

Total Operation and Maintenance Disbursements	\$ 4,250,693
Working Capital	84,148
PILT	600,000
Debt Service	1,680,993
Debt Service Reserve	64,332
Depreciation	<u>865,039</u>
Total Revenue Requirements	\$ 7,545,204
Less: Other Operating Income	<u>(289,577)</u>
Net Revenue Requirements	<u><u>\$ 7,255,627</u></u>

Annual Revenues

Unmetered	\$2,515
Residential	956,930
Commercial	416,343
Industrial	2,774,019
Public Authority	137,533
Fire Protection	<u>415,702</u>
Total Operating Revenues	<u>\$ 4,703,042</u>
Approved Increase	\$ 2,552,585

¹ As explained below, the Settlement Agreement was later amended by Addendum to increase the debt issue to \$18,000,000.

Divided by Revenue Conversion Factor	.986
Recommended Increase	<u>\$2,586,725</u>
Approved Increase Percentage	<u>55.00%</u>
Average Monthly Residential Bill (current \$10.86 assuming 4,000 gallons per month)	<u>\$ 16.83</u>

C. East Chicago’s Testimony in Support of Settlement

Mr. Crowley and Mr. Sommer provided testimony and exhibits on behalf of East Chicago supporting Commission approval of the Settlement. Mr. Crowley provided an update on the revised debt funding request for major capital improvements through the SRF and the status of the New Plant. He also sponsored a City Resolution approving the revised Project.

According to Mr. Crowley, the Project was revised in three respects. The Utility removed from the scope of the Project a valve exercising program, a leak detection survey and replacement of customer-owned lead pipes. Mr. Crowley testified that the OUCC expressed concern that the first two of these matters were not properly treated as capitalized expenditures, but rather should be treated as operating expenses. He said that the Utility agreed with the OUCC position and the Settlement reflects this agreement. He went on to state that the OUCC had also expressed the concern that funding repairs to property not owned by the utility is not the type of expense typically borne by ratepayers through debt financing. Through negotiations, the Utility agreed with the OUCC.

Mr. Crowley then discussed the operating status of the New Plant. The Utility has completed performance testing at the New Plant and is in the process of doing additional assessments before taking the Old Plant offline. Mr. Crowley estimated that the New Plant would fully come online in 2017. He said that the New Plant, coupled with funding for other improvements such as AMI system and increased water storage will enable the Water Department to provide safe and efficient water service.

Finally, Mr. Crowley noted that the OUCC and the Utility have agreed to a 55% across-the-board rate increase but that the Settlement reflects certain changes to the make-up of the rate increase originally proposed by the Utility. In Mr. Crowley’s opinion, the Settlement represents a reasonable compromise of the issues in this proceeding and is in the public interest.

Mr. Sommer testified as to the key terms of the Settlement. For purposes of settlement, the OUCC has agreed to accept East Chicago’s requested overall rate increase. However, the parties agreed that certain adjustments to Petitioner’s rate study were appropriate. In particular, the Utility agreed to reduce the proposed debt funding associated with the SRF application to exclude three projects: (1) removal and replacement of customer-owned lead pipes, (2) a valve exercising program and (3) a leak detection survey. Mr. Sommer stated that the Parties to the Settlement agreed that the first expenditure should not be recovered through rates and the latter

two items should be treated as operating expenses and not capitalized. As a result of the Settlement, the Utility submitted a revised PER to the SRF. Mr. Sommer said that certain other adjustments were made to the original rate study as a result of discussions and compromise. In the end, Mr. Sommer stated that while the Settlement resulted in a lower debt financing amount, the OUCC agreed that the Utility should recover the full amount of the requested 55% rate increase.

Mr. Sommer then discussed the effect of the Settlement on the issuance of debt by the Utility. The Settlement provides, according to Mr. Sommer, that East Chicago should be authorized to issue revenue bonds in principal amount not to exceed \$14.9 million at interest rates not to exceed 4%. Mr. Sommer pointed out that he used an interest rate of 2% in the original rate study and that at the time of the expected issuance it is estimated that the interest rate will be in the range of 2% to 4%. Mr. Sommer said that if the proposed debt issue is more expensive than presently calculated, the Settlement provides that the Utility will adjust its scheduled PILT or depreciation to maintain an overall 55% rate increase. After the Utility closes on the bond issue, the Settlement provides that the Utility will file a true-up report reflecting the actual costs associated with the debt issue that will maintain the overall 55% rate increase. According to Mr. Sommer, the OUCC will have an opportunity to review this report and file any objections. If there are objections, the Utility will have 30 days to respond and any dispute shall be resolved by the Commission. In spite of these provisions, Mr. Sommer stated that because the overall percentage increase will not change regardless of the interest used, the Settling Parties have no expectations that this objection process will be used.

Mr. Sommer stated that he does not expect a significant delay between the issuance of an order in this proceeding and the debt issuance. However, the Settlement provides that in the event of a delay of 4 or more months between the collection of the new rates and the issuance of the debt, East Chicago will use funds collected that are attributable to the 2017 debt expense to prefund the debt service reserve. Mr. Sommer noted that the SRF will not issue the bonds without an order from the Commission and it is important to receive a prompt Commission order so that the Utility may be in the next cycle of funding by the SRF.

Mr. Sommer testified that the Settlement Agreement represents a fair, reasonable and just resolution of the issues in this proceeding and is in the public interest. He noted that the Utility has been operating at a loss for a long time and this it is critical for the Utility to raise rates to provide reliable, efficient water service to the East Chicago customers.

D. OUCC's Testimony in Support of Settlement

The OUCC presented the settlement testimonies of Mr. Carl N. Seals, Mr. Richard J. Corey and Mr. Edward Kaufman.

1. Carl N. Seals

Mr. Seals is a Utility Analyst for the OUCC and submitted testimony regarding East Chicago's capital improvement projects. After reviewing East Chicago's 5-Year Capital Improvement Plan, the Utility's SRF application, 2016 monthly reports, the Utility's data

responses and meeting with Mr. Crowley, Mr. Seals concluded that the proposed capital improvement projects are reasonable.

Mr. Seals began his testimony by describing East Chicago's current water system. In discussing the current storage facilities, Mr. Seals noted that the Utility's storage level (9.5 million gallons) does not meet the utility's average day usage of 12.1 million gallons which is the Recommended Standard for Waterworks. He said that this situation will be further exacerbated when the Conventional Filtration Plant and associated underground storage facility are removed from service, but mitigated by the addition of two new, 4 million gallon storage facilities which are part of the Utility's proposed projects.

Mr. Seals then turned to lost water issues. He said that lost water may result from leaks or inaccurate measurement of consumption. East Chicago's level of lost water for the last five years has varied from 15.0% to 31.3%. If 2013 is excluded, the average has hovered around the 25-30% range and appears to be increasing. Mr. Seals then described the actions that East Chicago is taking to mitigate water lost. First, in order to evaluate its system, the Utility completed an American Water Works Association Water Audit in 2015. Additionally, as part of its capital projects, East Chicago has included AMI, district metering and programmatic leak detection. Mr. Seals said that the AMI project will improve billing, which will enable the Utility to more accurately assess total water sales to system delivery. According to Mr. Seals, the district metering project will allow the Utility to sum total customer flows throughout a district and compare with flows measured in the district as a whole. This system will provide water loss percentage by district, enabling the identification and prioritization of problem districts. Finally, he said the programmatic leak detection program will assist in identifying leaks throughout the entire system so that leaking distribution facilities may be replaced.

Mr. Seals testified the distribution capital projects included the AMI installation for \$1,578,983; District Metering at \$307,745; and Hydrant Improvements for \$169,200. The proposed storage projects consist of the addition of two new 4 million gallon storage tanks totaling \$8,445,696 for both and the demolition of the 1954 plant at a cost of \$854,504. Mr. Seals recommended that the Commission approve the funding necessary to complete the proposed projects as agreed in the Settlement. In conclusion, Mr. Seals recommended that the Commission approve the revenue requirement of \$803,000 for depreciation expense and debt-fund capital improvements totaling \$14,900,000.

2. Richard J. Corey

Mr. Corey is a Utility Analyst for the OUCC. He began his testimony by stating that East Chicago requested an increase in total operating revenues of \$2,586,725 per year, an increase of 55.0% in overall operating revenue. He noted that the Utility took the position that a rate increase in excess of 100% could be justified but the Utility reduced its rate increase by limiting its PILT revenue requirement to \$600,000 when it could justify \$1,232,767 and by limiting its depreciation expense to \$803,000 when it could justify \$1,354,948.

Mr. Corey testified that while there were aspects of Petitioner's revenue requirements with which he disagreed, he concluded that the proposed across-the-board revenue increase of 55% was warranted. He said that the Settling Parties agreed to a net annual revenue requirement

of \$7,545,204, which will result in an annual increase of \$2,586,725 or 55% over the Utility's current revenue at existing rates.

As to operating expenses, Mr. Corey said the Settling Parties agreed that the leak detection and water main valve exercising costs which were included in the Utility's proposed capital projects would be more appropriately treated as an operating expense amortized over a three year period. Thus, the total borrowing was reduced by \$135,383. When amortizing this amount over three years, the annual operating expenses increased by \$45,127. Mr. Corey said the filed-for depreciation expense of \$803,000 was modified by the Settling Parties in order to maintain an across-the-board increase of 55%. The Settling Parties also agreed on taxes other than income taxes of \$179,081 as originally filed. Mr. Corey said that the working capital requirement of \$84,148 reflects a reduction in the originally filed amount of \$98,915. Finally, as to expenses, Mr. Corey testified that the Settling Parties used the proposed PILT amount of \$600,000.

Mr. Corey noted that the Settling Parties agreed that the Utility should be authorized to include an annual debt service amount of \$1,680,993. This amount reflects the removal of \$1,375,000 from the Utility's proposed \$16,545,000 borrowing which relates to the lead/copper line replacement program and the use of a five-year average debt component for revenue requirements rather than the maximum annual amount. According to Mr. Corey, these changes result in a debt service requirement of \$81,783 less than the amount originally requested by the Utility.

Mr. Corey testified that the Settlement was in the public interest by balancing each party's interest, resolves all issues avoiding the expense of litigation and reflects concession on issues by both parties. Mr. Corey said that the OUCC recommends that the Commission approve the Settlement in its entirety.

3. Mr. Edward Kaufman

Mr. Kaufman, Chief Technical Advisor for the OUCC, presented settlement testimony on the debt financing issues and described the resolution of those issues. According to Mr. Kaufman, the OUCC had several concerns regarding the Utility's proposed annual debt service. First, the Utility used its maximum annual debt service for its proposed revenue requirements instead of its five-year average debt service. In Mr. Kaufman's opinion, use of the maximum annual debt service overstates the Utility's revenue requirements. The Settlement reflects the use of the five-year average but the Settling Parties recognize that the Utility shall use the maximum annual debt service in determining its coverage ratios. Second, the OUCC had concerns about the Utility including revenue requirement funds to pay for property that is not owned by the Utility, specifically, the lead-pipe replacement program. The Settling Parties agreed that these funds should be excluded from the debt service calculations. Third, the Settlement resolves the issue surrounding items that should be expensed and amortized instead of included in debt by excluding such items. Finally, Mr. Kaufman stated the OUCC's position the Utility should not issue debt and incur expenses before it is needed. He was also concerned about increasing the Utility's rates before debt is issued which will permit the Utility to collect funds in rates without a corresponding expense. He said that the Utility should expeditiously pursue the issuance of debt after the Commission issues an order in this proceeding. He explained that the Settlement

provides that if the Utility cannot issue its debt within four months of the Commission order, the Utility will temporarily reserve the funds collected in rates and use these funds to reduce the amount it needs to fund its debt service reserve. In his opinion, this Settlement provision merely matches revenues collected for the 2017 bonds against the actual expenses for those bonds.

Mr. Kaufman testified that the Utility's proposed rates include \$64,332 per year to fund its debt service reserve, and he accepted this calculation. He further testified that the Settlement provides that if Petitioner does not deposit \$64,332 annually or spends the reserve funds on any item other than the last payment on its proposed 2017 debt issuance, the Utility must file a report with the Commission stating the amount spent from the reserve, explain why it used the reserve funds, any loan provisions that allow it to spend the funds from the debt service reserve, describe its plans to replenish the reserve and describe measures the Utility implemented to forestall using the reserve funds.

Mr. Kaufman recommended that the Commission authorize the Utility to issue up to \$14,900,000 in long-term debt at a maximum rate of 5%, include \$1,680,993 in rates for the annual debt service on its current debt and its proposed 2017 bonds and approve the Settlement provisions regarding the gap between the issuance of the order and the bonds, the report to be filed after the bonds are issued and any report required after an expenditure of debt service reserve funds.

E. Industrial Group Testimony Opposing Settlement

Mr. Michael P. Gorman, a Managing Principal of Brubaker & Associates, Inc., presented testimony in opposition to the Settlement on behalf of the Industrial Group. Mr. Gorman testified that the Settlement was not reasonable as it overstated the revenue requirement and adopted an inappropriate across-the-board methodology to allocate the requested increase.

With respect to the revenue requirement, Mr. Gorman testified that, over a five-year period, the Settlement overstates the cash revenue needed to support East Chicago's E&R program and cash reserves. Mr. Gorman proposed an annual reduction to the revenue requirement of \$148,470. This reduction is comprised of an overstatement in the Settlement's annual \$64,322 debt service reserve expense and annual \$84,148 working capital expense. Mr. Gorman testified that absent these adjustments, the agreed revenue requirement would produce approximately \$5.34M in net revenues over five years, higher than the \$4.325M in depreciation expense to be collected over that same time, and a cash amount in excess of that needed to fund East Chicago's proposed E&R plan.

Mr. Gorman explained that his debt service adjustment is tied to a reduction in the debt issued. He proposed the debt issued under the Settlement should be reduced by \$4.325M, an amount equal to the depreciation expense over five years. This would lower the amount of debt issued from \$14.9M to \$10.6M. Mr. Gorman further testified that the reduction in the revenue requirement and reduced debt issuance would produce revenues sufficient to provide a debt service coverage ratio of 1.45X, and still provide sufficient revenue to fund East Chicago's expenses and cash reserves consistent with the terms of the Settlement. Mr. Gorman testified that his analysis reflected the possibility that the Utility can refinance its 2006 bond issue which is currently at 4.4% at a rate of 4%. He stated that the Settling Parties assumed that the 2017 bond

issue would be issued at rates between 2% to 4%, although the Settlement is based on 2% interest rate. He testified that to the extent the 2006 bond issue could be financed at a lower rate, the decrease in interest costs could be used as an offset for any difference between the assumed and actual interest rate of the 2017 bond issuance. He therefore recommended the Commission order East Chicago to pursue refinancing of its 2006 bonds.²

Mr. Gorman also testified that the Settlement was unreasonable because it adopted an across-the-board methodology to allocate the rate increase. He testified that the costs of operating a utility should be based on cost of service principles and that the Commission has long recognized the benefits of cost-of-service rates including basic fairness and equity in ensuring customers are not burdened with paying for costs they do not impose on the system. He also testified cost of service rates send proper price signals to customers so that they can respond appropriately to the cost consequences of the consumption. Mr. Gorman testified that an across-the-board methodology such as that adopted by the Settlement deviates from the core principle of cost of service rate-making, and necessarily imposes costs on customers without regard to whether they are cost causers. He testified that as a consequence of the use of an across-the-board rate increase the Settlement rate design is unfair and unjust.

Mr. Gorman further testified that the Utility's concentration on correcting its dire financial condition cannot be used as an excuse to implement an across-the-board rate increase. He stated that such a focus ignores the issue of whether the rates established are confiscatory to ratepayers. He testified that as the across-the-board methodology imposes costs on customers for which they are demonstrably not responsible, the rates are, by definition, confiscatory.

He also testified that East Chicago's financial condition was at least partially a situation of its own making, given its choice to delay any rate increase even as it faced financial difficulties. Mr. Gorman testified that the Utility could have reacted to changing costs that occurred over time to improve its condition, and that having chosen not to act did not justify "an easy across-the-board increase" to fix the utility's financial condition.

To illustrate that customers are paying for costs for which they are not responsible, Mr. Gorman presented evidence that under an across-the-board increase, all customers would be responsible for funding East Chicago's investment in a small meter replacement program. He testified that there is no justification to impose those costs on customers who use larger meters and are served by larger distribution and transmission mains. He also testified that East Chicago requires large customers to fund the replacement of their own meters, meaning that they directly bear the cost of their own meters, and are also being asked under the Settlement to fund the replacement of meters for small customers—who make no contribution to the cost of large meter replacements.

Mr. Gorman further testified that East Chicago's 12 largest customers, excluding its wholesale customers, are funding approximately 44.34% of the total revenue increase solely

² Mr. Gorman also suggested that if East Chicago's 2002 Bonds, at a current interest rate of 2.9%, could be refinanced at a lower rate, that reduced interest cost should also be reflected in the revenue requirement. Mr. Gorman, however, did not ask the Commission to direct East Chicago to refinance those bonds.

through Block 4 volumetric charges. He testified this was being done with no demonstration that the customers are responsible for that proportion of the system costs, or that the costs are appropriately recovered through volumetric rates.

In the absence of a cost of service study, Mr. Gorman recommended that the Commission adopt a short-term solution, holding Block 4 volumetric charges at their current revenues. He testified that doing so would relieve large customers of responsibility for costs such as small meter and line replacement which they should not bear; while increases to Block 1, 2, and 3 charges and meter charges would continue to impose cost responsibility on large customers for other costs associated with operating the utility.

Mr. Gorman further testified that the Commission should order East Chicago to perform a cost-of-service study and utilize that study for purposes of rate design in its next rate case. He testified that as additional data becomes available to East Chicago, it should continue to be required to update the cost of service study and rate design in future rate cases as well.

F. Rebuttal Testimony in Support of Settlement

In response to Mr. Gorman's testimony, the Utility and the OUCC presented the settlement rebuttal testimonies of Mr. Sommer and Mr. Kaufman, respectively. Mr. Sommer began his rebuttal testimony by introducing an exhibit that shows that the Utility would be entitled to a revenue increase of 125.91% if depreciation, PILT and Debt on plant were included at their full levels. Mr. Sommer also included the Debt service that was issued in the amount of \$27,200,000 that was issued in 2009. The 2009 Debt is supported by Gaming Tax Revenues, other Water Department funds and a Special Benefit Tax on all properties of the waterworks district. Mr. Sommer said that this Debt was used solely to fund the New Plant and in 2009, it was decided not to request the water ratepayers pay for this Debt at that time. Mr. Sommer noted that gaming revenues for the City have declined in recent years and are likely to decline in the future. Therefore, it may be necessary for the Utility to seek the recovery of future debt service payments from the water ratepayers. Mr. Sommer stated that his rebuttal exhibit affirms his direct settlement testimony that the Utility could have justified a rate increase of at least 100%, but for settlement purposes, limited that request to 55%.

Mr. Sommer then responded to Mr. Gorman's criticism that the Utility should have filed a rate increase sooner than it did. In Mr. Sommer's opinion, the Utility should not have to justify having some of the lowest water rates in the State of Indiana. He also noted that the Industrial Group would be severely impacted by any such rate increase. Mr. Sommer noted that based on 2015 revenues, the Industrial customers made up 60% of the revenues collected by the Utility. In this case, if the Utility included rates that had requested the full level of PILT and Depreciation alone, the Industrial Group class rates would have increased by \$1,091,805 per year.

Mr. Sommer also disagreed with Mr. Gorman's position that the Settlement overstated the cash needed to support the Utility's E&R program and cash reserves. Mr. Sommer said that Mr. Gorman is incorrect in assuming that the level of annual expenditures for E&R will never exceed the Depreciation Revenue Requirement. Mr. Sommer calculated that that actual average of annual expenditures for E&R amount to \$1,236,185 which exceeds the annual Depreciation

Revenue requirements by \$371,146. Thus, over the five-year period used by Mr. Gorman, the annual E&R expenditures would exceed Depreciation by \$1,855,730.

Mr. Sommer asserted that Mr. Gorman's confidential exhibit which shows excess cash of \$1,014,707 over the next five years is flawed. That exhibit assumes no inflation. Mr. Sommer modified the exhibit to assume an inflation factor of 3% for operating expenses and taxes other than income taxes and 2% for purchased power. Mr. Sommer also modified the exhibit to more accurately reflect recent capital expenditures and the replenishment of certain funds. With these modifications, Mr. Sommer said that the Utility will experience significant deficiencies in cash reserves, not an excess.

As to Mr. Gorman's recommendation that the Utility should refinance the 2002 and 2006 bonds, Mr. Sommer testified that such refinancing was not likely to happen. He said the 2002 SRF issue bears an interest rate of 2.90% which renders this issue non-refundable under current market conditions. The 2006 issue cannot be refunded until March, 2017, and then, only with a 2% premium. Also, Mr. Sommer stated that the Utility could not even consider refunding the bonds until it has adequate coverage which will not happen until the Commission issues an order in this proceeding.

Mr. Sommer also disagreed with Mr. Gorman's recommendation that the 2017 bond issue be reduced by \$4,325,000. Mr. Sommer testified that this proposal is predicated on using funds generated by the depreciation expense requirement, but the assumption ignores non-debt funded projects which will also use the depreciation expense revenue requirement. In Mr. Sommer's opinion, any reduction to the 2017 bond issue should be left to the SRF which does a thorough job of vetting all capital projects.

Finally, Mr. Sommer addressed Mr. Gorman's proposal that the Block 4 rates remain in place and not be subject of any rate increase. Mr. Sommer prepared an exhibit that demonstrates that by using Mr. Gorman's Block 4 volumes, a customer using less than 1 million gallons per month would experience a 97.17% increase in its water rates. As for a customer using 4,000 gallons per month, Mr. Gorman's proposal would cause such customers to pay a rate at least 27% higher than the corresponding rate under the Settlement. In Mr. Sommer's opinion, this result is unreasonable. Mr. Sommer sees no reason to implement the Settlement rate increase in a manner other than across-the-board.

Mr. Sommer also disagreed with Mr. Gorman's position that the Settlement should be conditional on the Utility performing a cost of service study in its next rate case. According to Mr. Sommer, the Utility may well decide to prepare such a study given the more accurate data it will have as a result of its AMI and district metering projects. Even if the Utility decides not to prepare such a study, Mr. Sommer testified that the Industrial Group could intervene earlier than it did in this proceeding, request the information and then sponsor a cost-of-service study. In Mr. Sommer's opinion, it is neither sensible nor necessary to order future cost-of-service studies.

Mr. Kaufman limited his Settlement rebuttal testimony to Mr. Gorman's proposal that the Commission should adopt a rate design that would freeze the Block 4 rates. Mr. Kaufman stated that, looked at in another way, the proposal would freeze the Block 4 at \$1.10 per 1,000 gallons and reallocate any revenue increase to other customer classes. In Mr. Kaufman's opinion, Mr.

Gorman's proposal is not reasonable. He noted that Mr. Gorman devoted only a short paragraph to this proposal which does not reveal the significant impact on all other customer classes. According to Mr. Kaufman, this proposal would reallocate \$1,131,783 per year to customers whose usage occurs in rate blocks 1, 2 and 3. Mr. Kaufman also noted that this short-term solution may not be short term since it is obviously intended to remain in effect for the life of the Settlement rates.

Mr. Kaufman stated that the Industrial Group had not calculated the impact of Mr. Gorman's proposal. Using the analysis sponsored by Mr. Sommer, Mr. Kaufman testified that the residential customers would see their rates increase to \$21.41 instead of the Settlement increase of \$16.83 per month. Stated another way, Mr. Gorman's proposal would reallocate another \$4.58 per month increase to the residential customer. Mr. Kaufman stated that the impact of Mr. Gorman's proposal is in addition to the \$5.97 per month residential increase proposed under the Settlement.

In Mr. Kaufman's opinion, such a significant impact should only be implemented with a cost of service study as a basis for a significant increase. Mr. Kaufman said that the Industrial Group only looks at increased costs. According to Mr. Kaufman, it is inappropriate to assign, or move away, costs for a customer class without considering all costs. Mr. Kaufman concluded that allocations should be done looking at a utility's operations as a whole, not piecemeal.

G. Hearing Testimony

On January 14, 2017, the Commission issued a Docket Entry requesting East Chicago provide additional information regarding the lead pipe replacement program. The Docket Entry, citing the testimony of Mr. Crowley, noted that the Utility's intent to go forward with the program even though the Settlement deleted from the proposed capital project to be financed by the 2017 debt issue the costs of the customer-owned lead pipe replacement program. The Docket Entry requested further information regarding how funding for this project will be obtained.

On January 18, 2017, the Utility filed its response to the Docket Entry and presented Mr. Sommer at the January 19, 2017 hearing to answer any questions on the Response. The Industrial Group requested and was granted permission to cross-exam Mr. Sommer on the response. Mr. Sommer testified that after the Settlement was filed with the Commission, he began exploring financing options for the lead pipe replacement program. After further discussions with the SRF, the SRF agreed to provide full funding at a reduced interest rate. Thus, with the reduced interest rate, the total debt service cost will be no greater than the financing cost to be paid under the Settlement Agreement. Mr. Sommer testified that he developed the capital for the program by doubling the \$1.3 million cost that was reflected in the Utility's original SRF application, added engineering costs, a contingency and administration costs to arrive at the total costs of \$3.1 million. This proposal would increase the principal of the 2017 SRF bond issue from \$14.9 million to \$18 million. But because the interest rate was reduced from 2.0% to 0.5742% the cost would be no greater than the cost of a \$14.9 million loan. Mr. Sommer indicated that he had checked these numbers just the prior day with the SRF and they were agreed upon as being reasonable. Mr. Sommer presented two schedules showing the amortization of the two different levels of bonds. Those schedules show that the Utility's water customers will pay the same total annual debt service costs under either the \$18 million or

the \$14.9 million issuance. Mr. Sommer testified that the SRF was effectively providing a grant to the Utility for the entire lead-pipe replacement program.

At the end of Mr. Sommer's testimony, Petitioner presented an Addendum to the Settlement which stated that the Settling Parties agreed that the amount of debt reflected in Paragraph 8 of the Settlement should be increased to \$18,000,000 to reflect the additional funds for lead pipe replacement to be made available by the SRF at the same cost of the debt issuance as before.

6. Discussion and Findings.

A. Settlement Agreement. Settlements 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*, 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. Here, while the OUCC and the Utility have come to an agreement, the Industrial Group objects to the Settlement Agreement, and its concerns must be addressed.

Regardless, any Commission decision, ruling, or order, including the approval of a settlement, must be supported by specific findings of fact and sufficient evidence. *U.S. Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co. of Ind., Inc.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Indiana Code ch. 8-1-2 and that such agreement serves the public interest.

In this case, East Chicago and the OUCC reached an agreement before any testimony responding to East Chicago's case-in-chief was filed. The agreement reached required the re-allocation of some expenses (from capital to operating expenses) and reduced the amount of debt to be issued through the SRF, but did not affect the overall net revenue requirement or the proposed rate increase in this matter. In essence, the OUCC agreed that the Utility needed the full rate increase it was requesting, and three witnesses testified in support of that conclusion. We find the OUCC's support of the Utility's request significant in our analysis, though not in and of itself sufficient. The Commission itself must determine that the Settlement Agreement is reasonable, just, and in the public interest with consideration for the Industrial Group's objections.

The Industrial Group proposed two changes to the Settlement Agreement's revenue requirements. First, Mr. Gorman eliminated Working Capital from the revenue requirement resulting in a reduction of \$84,148. The sole justification for this adjustment is that he is providing adequate cash reserves elsewhere and therefore a Working Capital allowance is not

needed. This position is at odds with the clear language of Indiana Code § 8-1.5-3-8(4) which states that revenues must “provide adequate money for working capital.” Mr. Gorman does not dispute the level of Working Capital reflected in the Settlement Agreement—he simply says that it is not necessary. This position is not the standard, and we reject the Industrial Group’s proposed adjustment. The Industrial Group also proposed that East Chicago’s bond issue be reduced by the amount of depreciation to be recovered through rates. That would have the effect of lowering the debt issue by approximately \$4.3 million with a corresponding effect on rates. We decline to adopt this recommendation. As Mr. Sommer explained, the Utility anticipates using the depreciation expense to cover the expense of other non-debt-funded E&R projects. Mr. Sommer also established through his testimony that the Utility is requesting substantially less depreciation than it would be statutorily entitled to request to meet its net revenue requirements. He also provided evidence that the actual average of annual expenditures for E&R exceeds the annual Depreciation Revenue requirements.

As we have previously noted, the Indiana Court of Appeals has held that the intent of Indiana Code § 8-1.5-3-8 is to allow a utility to use the greater of depreciation expense or extensions and replacements. *Stucker Fork Conservancy District*, Cause No. 44687, at 13 (IURC Dec. 14, 2016) (citing *Board of Directors for Utilities v. Office of Utility Consumer Counselor*, 473 N.E.2d 1043, 1052 (Ind. Ct. App. 1985)). “To the extent a utility elects to include depreciation expense, in lieu of extensions and replacements in its rates, the depreciation expense is a cash revenue requirement of the utility.” *Id.* at 13-14 (citing *Town of Lowell*, Cause No. 39747 (IURC Dec. 1, 1993); *see also Columbia City, Ind.*, Cause No. 39808 at 4 (IURC June 1, 1994)). The Industrial Group’s recommendation that depreciation expense be applied to the debt issue runs afoul of the principle that the Commission must allow a reasonable amount of depreciation expense in a utility’s rates to avoid “the gradual confiscation of the utility’s investment in depreciable property.” *Id.* at 14 (citing *Crawfordsville Electric Light & Power Co.*, Cause No. 39381, at 7 (IURC Dec. 2, 1992); *City of Evansville*, Cause No. 42176 at 20-21 (IURC Feb. 18, 2004)). Moreover, the Industrial Group is not contesting any of the projects planned to be funded by the 2017 Bonds, and the Commission understands that the SRF will conduct its own review of the projects proposed to be funded. Since the *Citizens* case cited above, the Commission has consistently held that a water utility is entitled to either an allowance for depreciation or an allowance for E&R, but not both. We have never held that once the water utility selects one of these alternatives, the other alternative is used to reduce other capital projects funded by bond issues. There is a clear difference between depreciation and E&R on one hand and capital projects funded by bonds on the other hand. The Industrial Group’s proposed adjustment eliminates this important distinction. Under these circumstances, the Commission will not order the reduction of the debt issue as requested by the Industrial Group.

The Industrial Group also proposed that the 2002 and 2006 bonds should be re-financed at a lower rate. Mr. Sommer’s testimony suggested that re-financing is not feasible at this time given current market conditions and the Utility’s financial position. The Commission nonetheless directs the Utility to explore that option and report to the Commission as further directed below.

The Industrial Group suggested that the Settlement Agreement should be modified to lower the impact on high-volume users by not applying the increase to the Block 4 rates and

recovering the revenues that would otherwise be generated from Block 4 from the other rate blocks (1 - 3). As calculated by the OUCC, the effect of this proposal would be to further increase the rates of residential customers from \$16.83 per month, as established by the Settlement, to \$21.41 per month. Instead of a 55% increase, Mr. Sommer testified that a customer using less than 1 million gallons per month would experience a 97.17% increase in water rates. The Industrial Group argues that Mr. Sommer's and the OUCC's analyses are flawed because they assume all revenues resulting from freezing Block 4 will be spread equally across the volumetric charges of Blocks 1, 2 and 3. The Industrial Group asserted post-hearing that its position also includes increasing the meter charges, which Mr. Sommer and Mr. Kaufman did not consider. But Mr. Gorman's testimony is difficult to reconcile with this post-hearing position. In the first sentence of the only paragraph on this issue, Mr. Gorman states that "[a] short term solution, until East Chicago files a new base rate case, would be to hold the Block 4 charges at their current rates." (Gorman at 12). The only mention of meter charges is in the last sentence of this paragraph where Mr. Gorman states: "Keeping the increases for Blocks 1, 2 and 3, as well as the proposed increases for meter charges will continue, however, to impose cost responsibility on those large customers for other costs associated with operating the system for which they may be partially responsible." (Gorman at 13). This sentence is more of a complaint and does not meaningfully detail the Industrial Group's proposal. Certainly Mr. Gorman could have clarified the Industrial Group's position by filing a tariff sheet setting forth the resulting rates. He did not file such an exhibit.

While the Industrial Group complained generally that the Utility did not present cost of service information, we would note that neither did the Industrial Group. Indeed, as Mr. Kaufman pointed out, there was only one paragraph of testimony supporting the Industrial Group's proposal to freeze Block 4. Absent any cost of service evidence in the record that might justify an uneven allocation of the net revenue requirements across the rate blocks, the Commission finds the Utility's proposed across-the-board increase appropriate for purposes of this case and rejects the Industrial Group's proposal as to rate allocation.

Finally, the Commission addresses the amendment of the Settlement Agreement to add an additional \$3.1 million in funds to cover the lead pipe replacement costs. The Settlement Agreement originally excluded from the borrowing funds associated with Petitioner's proposed program to assist customers replacing their own lead service lines. As reflected in the settlement testimony, the OUCC had concerns with customers being required to pay higher rates to fund the cost of replacements where the plant is not owned by the utility. The OUCC considered funding the program in the manner proposed would implicate the ratemaking principle that ratepayers should not pay for property not owned by the Utility. As such, it was understood that the City of East Chicago would seek to continue to fund the program but through other means.

Prior to the hearing on Petitioner's and the OUCC's proposed settlement, East Chicago procured a modification of the terms of its proposed borrowing that would not increase debt service costs but would produce additional funds by which the proposed customer-owned lead line abatement program could proceed. At the hearing, Mr. Sommer testified that although \$3.1 million would be added to the debt issue, the Utility would pay no more for the 2017 Bonds than what was originally anticipated. Therefore, the \$3.1 million additional funds (which covers the full anticipated cost of the customer-owned pipe replacement project, not just the original Utility-

proposed matching funds included with the original SRF application) has the effect of a grant—i.e., a no-cost option offered to the Utility to remedy an important issue. Mr. Sommer’s hearing exhibits demonstrate this point. Those exhibits show that the principal to be paid by East Chicago’s ratepayers will increase by \$3.1 million. Those exhibits also show that the interest to be paid by those same ratepayers will decrease by \$3.1 million. At the hearing, Petitioner presented a modification of the original Settlement Agreement to reflect this additional funding. Based on these exhibits, it is clear that as a result of this modification, neither Petitioner nor its ratepayers will pay more in debt service or rates respectively than they would have paid without the modification.

Industrial Intervenors opposed the amendment of the Settlement Agreement. Citing the original settlement testimony of Mr. Kaufman, they argued that the additional \$3.1 in debt cost will result in water customers paying for customer-owned infrastructure. In fact, Mr. Kaufman testified that the SRF and East Chicago could go forward with the lead-pipe replacement program “as long as the costs (including debt service) for customer-owned infrastructure are not recovered through water rates.” Public Exhibit 4 at 5. Industrial Intervenors’ brief ignores the fact that the OUCC fully supports the amendment of the Settlement Agreement. We must conclude that the OUCC does not believe that the amendment violates the ratemaking principle that forbids water customers paying for customer-owned infrastructure. Part of the cross-examination of Mr. Sommer demonstrates why. In response to a question as to whether the City was proposing to fund 100 percent of the replacement cost, Mr. Sommer stated that “Well, the SRF is proposing to fund 100 percent of the replacement costs; all the utility has to do is say yes.” (TR. 10.) After acknowledging that the additional \$3.1 million in financing would be included in the bonds to be issued by East Chicago, Mr. Sommer went on to explain that “while technically it is in the corpus or principal of the bond issue, the City of East Chicago water utility is not paying any more under this program than it would be if this program were not being proposed.” (TR. 11.) Importantly, the Industrials concede this point by admitting that the debt service payment is the same whether the debt is \$14.9 million or \$18 million. While this debt will be included in the bond issue, Industrial Intervenors and all other ratepayers will not pay for this project.

It is clear from the record in this case, that, as a practical matter, the lead-pipe replacement project is being paid for by the SRF, not the ratepayers. Industrial Intervenors are pursuing form over substance to argue the contrary. Therefore, Industrials’ argument that the program violates the principle that ratepayers should not pay for property not owned by the utility is unpersuasive because the principle is not applicable under these circumstances. We believe that it would be short-sighted to permit an inapplicable ratemaking principle to stand in the way of a grant intended to address a significant health risk. Equally inapplicable is the Industrials’ argument that the \$3.1 million in additional financing should not be approved because the project is still in the planning stage. All projects submitted to the SRF are in the planning stage and are subject to approval by the SRF. If there is no approval, there is no financing. We assume that the lead-pipe replacement project will be treated the same.

Given the OUCC’s and East Chicago’s amendment of the Settlement Agreement to accommodate the additional funding by raising the total debt issue to \$18 million, the Commission agrees that such a mechanism is in essence a grant made in order to promote the

abatement of customer-owned lead lines. Under the circumstances of this case and given that the total cost of the debt is not affected *regardless* of whether or not the Utility takes advantage of the SRF's funding option for lead-pipe replacement, the Commission approves the additional \$3.1 million in debt issue for the purpose of funding the lead-pipe remediation project affecting that part of the service lines owned by customers. (Funds attributable to the replacement of Utility-owned service lines remain as part of the traditional SRF issue.) All told, the Utility, the OUCC, and the SRF are proactively addressing this public health concern, and the Commission commends their effort to do so.

Upon review of the evidence of record as set forth above and for the reasons discussed, we find that the Settlement Agreement is the product of arms-length negotiations between the OUCC and the Utility and that the terms of the Settlement Agreement are supported by the evidence and represent a reasonable resolution of the issues presented to the Commission. We reject the Industrial Group's recommendations to reduce the net revenue requirement and re-allocate the rate increase. We find that the terms of the Settlement Agreement, as amended by the Addendum presented at the evidentiary hearing, are reasonable and the approval of the Settlement Agreement is in the public interest.

Therefore, the Commission finds the Settlement Agreement should be approved. Accordingly, based on the evidence presented and the Parties' Settlement Agreement, the Commission specifically finds:

1. Petitioner's Authorized Rates. The evidence demonstrates that Petitioner's current rates and charges are insufficient to satisfy its annual pro forma net revenue requirement. The Commission further finds that Petitioner shall be authorized to increase its rates and charges for water service, across-the-board, to produce annual revenues of \$7,545,204, representing a 55% increase.

2. Petitioner's Financing.

a. Borrowing Authority. Petitioner is proposing to incur long-term indebtedness through a loan made by the SRF in the principal amount not to exceed \$18 Million (the "Bonds"). Before Petitioner may issue the Bonds, we must grant approval pursuant to IC § 8-1.5-2-19. We will approve the issuance of bonds, notes or other obligations by a municipally owned utility if we find that the projects to be funded with the proceeds are reasonably necessary for the provision of adequate and efficient utility services and if we find the proposed debt issuance is a reasonable method for financing such projects. Petitioner's consulting engineer, Gregory Crowley, testified regarding the needs for these projects. Petitioner's accounting expert, Ted Sommer, testified that the proposed SRF loan is a reasonable method to finance the improvements. The OUCC's witnesses agreed. We therefore find the proposed projects are reasonably necessary for the provision of adequate and efficient utility service and that the proposed debt issuance is a reasonable method for financing such projects. We find that issuance of the bonds should be approved.

b. True-Up. Consistent with the Settlement Agreement, we find that Petitioner shall file within thirty days after closing on the Bonds a true-up report describing the

final terms of the 2017 Bonds, stating the amount of the debt service reserve, disclosing the final issuance costs, and including a final amortization schedule for the 2017 Bonds. To the extent the total debt costs (principal and interest) exceed \$19,409,273, Petitioner will adjust the revenue requirements of PILT and/or depreciation in the Report to hold any increase to the ceiling of a 55% overall rate increase. Because the overall rate increase will not change, it is not anticipated that the Utility will need to file a revised tariff. The Settlement Agreement provides a process for the OUCC to alert the Commission of any concerns. East Chicago is also directed to take reasonable steps to refinance its 2006 Bonds at an interest rate no greater than 4%. East Chicago is directed to file a report summarizing its efforts to refinance its 2006 Bonds with the Commission at the same time that it files the true-up required by this paragraph. If East Chicago cannot obtain such refinancing, it should include this result in the report to be filed hereunder.

B. Use of Settlement Agreement. Pursuant to the terms of the Settlement Agreement, it should not be used as precedent in any other proceeding or for any other purpose, except to the extent provided therein or to the extent necessary to implement or enforce its terms. Consequently, with regard to future citation of the Settlement Agreement, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, 1997 WL 34880849, at *7-8 (IURC March 19, 1997).

C. Confidentiality. On January 6, 2017 and January 9, 2017, the Industrial Group filed a “Verified Motion for Confidential Treatment” and “Verified Motion for Confidential Workpapers.” The Motions sought confidential treatment of Confidential Attachment MPG-E (entered into the evidentiary record as Intervenor Exhibit 1C) and supporting workpapers. The Motions were supported by verifications and set forth that the information contained on the exhibit and workpapers constitute trade secrets pursuant to Indiana Code §§5-14-3-4 and 24-2-3-2. On January 10, 2017, the Commission issued a preliminary finding of Confidentiality. No party objected either to the Docket Entry, or the admission of Intervenor Exhibit 1C; or as to the confidential and proprietary nature of the information submitted under seal. We find that all such information is confidential pursuant to Indiana Code §§5-14-3-4 and 24-2-3-2, is exempt from public access and disclosure by Indiana law, and shall be held as confidential and protected from public access and disclosure by the Commission.

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

1. The Settlement Agreement as amended by Addendum, a copy of which is attached to this Order, is approved.
2. Petitioner is authorized to increase its rates and charges for water service, across-the-board, to reflect annual revenues of \$7,545,204, representing a 55% increase.
3. Petitioner is granted a Certificate of Authority to issue additional long-term debt not to exceed \$18 million with a term of twenty (20) years at an interest rate not to exceed Four (4) percent, as approved herein. This Order shall be the sole evidence of Petitioner’s certificate.

4. Petitioner shall file a true-up report as provided in Finding Paragraph A (2)(b).
5. In accordance with Indiana Code § 8-1-2-85, Petitioner shall pay a fee equal to \$0.25 for each \$100 of water utility revenue bonds issued, to the Secretary of the Commission, within 30 days of the receipt of the financing proceeds authorized herein.
6. In accordance with Indiana Code § 8-1-2-70, the Petitioner shall pay within 20 days from the date of this Order, and prior to placing into effect the rates approved herein, the following itemized charges, as well as any additional charges which were or may be incurred in connection with this Cause:

Petitioner shall pay all charges into the Commission public utility fund account described in Indiana Code § 8-1-6-2, through the Secretary of the Commission.
7. The information submitted under seal in this Cause pursuant to motions for protective orders or confidential treatment shall be, and hereby is, determined to be confidential and exempt from public access and disclosure pursuant to Indiana Code §§ 24-2-3-2 and 5-14-3-4.
8. This Order shall be effective on and after the date of its approval.

ATTERHOLT, 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
Executive Secretary to the Commission

STATE OF INDIANA
 INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE CITY OF EAST CHICAGO,)
 INDIANA FOR AUTHORITY TO ISSUE)
 BONDS, NOTES, OR OTHER OBLIGATIONS)
 FOR AUTHORITY TO INCREASE ITS RATES) CAUSE NO. 44826
 AND CHARGES FOR WATER SERVICE, AND)
 FOR APPROVAL OF NEW SCHEDULES OF)
 WATER RATES AND CHARGES.)

JOINT STIPULATION AND SETTLEMENT AGREEMENT

This Joint Stipulation and Settlement Agreement ("Settlement Agreement") is entered into this 22d day of December, 2016, by and between the City of East Chicago, Indiana, ("East Chicago"), and the Office of Utility Consumer Counselor ("OUCC"), who stipulate and agree for purposes of settling all matters between them in this Cause that the terms and conditions set forth below represent a fair and reasonable resolution of all issues in this Cause, subject to their incorporation in a final Indiana Utility Regulatory Commission ("Commission") Order without modification or the addition of further conditions that may be unacceptable to either party. If the Commission does not approve the Settlement Agreement in its entirety and incorporate the conclusions herein in its final Order, the entire Settlement Agreement shall be null and void and deemed withdrawn, unless otherwise agreed to in writing by the Settling Parties (as defined below).

Terms and Conditions of Settlement Agreement

1. **Requested Relief.** On August 4, 2016, East Chicago initiated this Cause by filing a Verified Petition with the Commission requesting authority to increase its rates and charges and issue bonds to fund capital improvements to its waterworks.
2. **Prefiled Evidence of Parties.** In support of its Petition, East Chicago filed the Prefiled Testimony and Exhibits of Gregory D. Crowley, P. E., Patricia Bodnar, Ted Sommer,

CPA, and Joseph S. Dixon, CPA, on August 4, 2016. The OUCC did not file opposition testimony because the OUCC and East Chicago reached an agreement in principle in advance of the filing deadline. The Intervenors also opted not to file opposition testimony on the filing deadline because of notice of the settlement but instead requested permission to file testimony in response to the settlement.

3. **Settlement.** Through analysis, discussion, and negotiation, as aided by their respective technical staff and experts, East Chicago and the OUCC (“Settling Parties”) agree on the terms and conditions as described herein that resolve all issues between them in this Cause. Attached to this Settlement Agreement as Exhibit A is an accounting report (“Report”) that reflects the agreed upon revenue requirement, final rates and charges, and estimated amortization schedule for East Chicago's outstanding and proposed indebtedness. Schedule 10 of Exhibit A is a corrected rate schedule.

4. **Revenue Requirement, Rates, and Charges.** The Settling Parties agree that East Chicago should be authorized to increase its rates and charges for water service to reflect ongoing net revenue requirements in the amount of \$7,545,204, resulting in an annual increase of \$2,552,585 or 55% over East Chicago's current revenues at existing rates.

5. **Bulk Water Sales.** With regard to bulk water rates sought by East Chicago at its proposed bulk water dispensing station, the Settling Parties agree that customers shall be charged at the current schedule of metered rates.

6. **Adjustments.** After review and examination, East Chicago has agreed to the OUCC's proposed adjustments for characterization of expenses related to the valve exercising program and leak detection survey. Other adjustments are addressed in testimony and reflected

in the settlement schedules related to various miscellaneous adjustments to O&M expenses and decreased revenues.

7. **Reduction of Debt.** The Settling Parties further agree that East Chicago will reduce the amount of its debt request to the State Revolving Fund (SRF) to remove the line items associated with replacement of customer-owned lead piping, the valve exercising program, and the leak detection survey. The revised SRF application is attached as Petitioner's Settlement Exhibit 1S-1.

8. **Authority To Issue Debt and Interest Rates.** The Settling Parties agree that East Chicago should be authorized to issue long-term debt ("2017 Bonds") in a principal amount of approximately \$14,900,000 at a net average annual interest rate not to exceed 5% per annum. For purposes of determining East Chicago's revenue requirement (and calculating its rates), the parties have assumed an interest rate of 2% as reflected in the amortization schedules contained in the Report. The final interest rate to be charged by SRF to East Chicago, assuming a closing in first or second quarter 2017, is unknown at this time and expected to be higher than 2% but lower than 4%.

9. **Filing of True-Up Report and Objections Process.** Within thirty (30) days after closing on the 2017 Bonds, East Chicago shall file in this Cause a true-up report describing the final terms of the 2017 Bonds, stating the amount of the debt service reserve, disclosing the final issuance costs, and including a final amortization schedule for the 2017 Bonds. To the extent the total debt costs (principal and interest) exceed \$19,409,273, the City of East Chicago agrees that it will adjust the revenue requirements of PILT and/or depreciation in the Report to hold any increase to the ceiling of a 55% overall rate increase. The presumption is that East Chicago will not need to file a revised tariff in any event because the overall percentage rate increase will not

change regardless of the issuance costs. The OUCC shall nonetheless have fourteen (14) calendar days in which to object to the true-up report and revised schedules for any reason. In the event of an objection, the parties agree to meet within two weeks to discuss resolution, but if no resolution can be reached within 30 days, East Chicago will file a response to the OUCC's objection and the matter may be addressed by the Commission.

10. **Filing of Tariff and Delay in Issuance of Debt.** The Settling Parties agree that East Chicago may expeditiously file a new tariff after issuance of a Commission Order in this Cause approving an adjustment to East Chicago's rates. If East Chicago does not issue the 2017 Bonds within four months after the collection of revenues under the new tariff, East Chicago should use those debt funds to pre-fund its debt service reserve.

11. **Expenditures from Debt Service Reserves.** If East Chicago or the State Revolving Fund's Trustee spends any of the funds from East Chicago's Debt Service Reserve for any reason other than to make the last payment on the underlying debt, East Chicago will provide a report to the Commission and OUCC within five (5) business days after such expenditure that states: (i) how much East Chicago spent from its Debt Service Reserve; (ii) why and on what it spent the funds from its Debt Service Reserve; (iii) a cite to, and a quote from, any applicable loan documents that allow East Chicago to spend funds from its Debt Service Reserve; (iv) how East Chicago plans to replenish its Debt Service Reserve; and (v) any cost-cutting activities East Chicago has implemented to forestall spending funds from its Debt Service Reserve. For the sake of clarity, by virtue of the SRF's Trustee receiving all outstanding Debt Service Reserve funds and transfers for the new bond issue's reserve fund, East Chicago does not have the ability to draw on the reserve fund to pay other bonds. If there is a draw on the reserve it will be done

by the SRF's trustee because the monthly debt service principal and interest transfers have not been made in the agreed to manner.

12. **Admissibility and Sufficiency of Evidence.** The Settling Parties hereby stipulate that the August 4, 2016 case-in-chief pre-filed testimony and exhibits of East Chicago and the contemporaneously pre-filed settlement testimony and exhibits of East Chicago and the OUCC should be admitted into the record without objection or cross examination by either party. The Settling Parties agree that such evidence constitutes substantial evidence sufficient to support the Settlement Agreement and provides an adequate evidentiary basis upon which the Commission can make all findings of fact and conclusions of law necessary for the approval of this Settlement Agreement as filed.

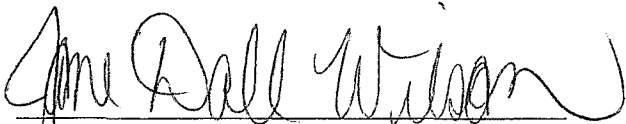
13. **Non-Precedential Effect of Settlement.** The Settling Parties agree that the facts in this Cause are unique and all issues presented are fact-specific. Therefore, neither the Settlement Agreement nor the positions reflected in the Attachments thereto shall constitute or be cited as precedent by any person or be deemed an admission by any party in any other proceeding except as necessary to enforce its terms before the Commission or any court of competent jurisdiction. This Settlement Agreement is solely the result of compromise in the settlement process, except as provided herein, is without prejudice to and shall not constitute a waiver of any position that either party may take with respect to any issue in any future regulatory or non-regulatory proceeding.

14. **Authority To Execute.** The undersigned have represented and agreed that they are fully authorized to execute the Settlement Agreement on behalf of the designated parties, who will hereafter be bound thereby.

15. **Approval of Settlement Agreement in its Entirety.** As a condition of this settlement, the Settling Parties specifically agree that if the Commission does not approve this Joint Stipulation and Settlement Agreement in its entirety and incorporate it into the Final Order as provided above, the entire Settlement Agreement shall be null and void and deemed withdrawn, unless otherwise agreed to in writing by the Settling Parties. The Settling Parties further agree that if the Commission does not issue a Final Order in the form that reflects the Agreement described herein, the matter should proceed to be heard by the Commission as if no settlement had been reached unless otherwise agreed to by the Settling Parties in a writing that is filed with the Commission.

16. **Proposed Order.** The Settling Parties agree to work together in preparing a mutually acceptable proposed order that the Settling Parties agree to file with the Commission on or before February 2, 2017.

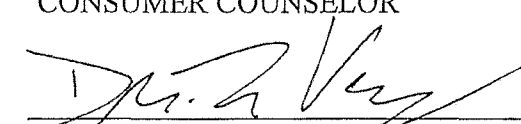
CITY OF EAST CHICAGO, INDIANA



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Exhibit A

Settlement
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**EAST CHICAGO MUNICIPAL WATER DEPARTMENT
CAUSE NUMBER 44826**

Settlement Schedules

	<u>Petitioner's Original Case in Chief</u>	<u>Settlement</u>	<u>Sch Ref</u>	<u>Settlement More (Less) Settlement</u>
Operating Expenses	\$ 4,026,485	\$ 4,071,612	4	\$ 45,127
Taxes other than Income	179,081	179,081	4	-
Depreciation Expense	803,000	865,039	6	62,039
Working Capital	98,915	84,148	7	(14,767)
Payment in Lieu of Taxes	600,000	600,000	Pet	-
Debt Service	1,762,776	1,680,993	8	(81,783)
Debt Service Reserve	74,947	64,332	9	(10,615)
Total Revenue Requirements	7,545,204	7,545,204		-
Less: Interest Income	-	-		-
Other Income				
Add: Other Expenses				
Net Revenue Requirements	7,545,204	7,545,204		-
Less: Revenues at current rates subject to increase	(4,703,042)	(4,703,042)	4	-
Other revenues at current rates	(289,577)	(289,577)	4	-
Net Revenue Increase Required	2,552,585	2,552,585		-
Divide by Revenue Conversion Factor (100% - 1.4%)	0.986	0.986		0.986
Recommended Increase	<u>\$ 2,586,725</u>	<u>\$ 2,586,725</u>		-
Recommended Percentage Increase	<u>55.00%</u>	<u>55.00%</u>		<u>0.0%</u>

<u>Current Rate for 4,000 Gallons</u>	<u>Proposed</u>		<u>OUCG</u>
	<u>Petitioner</u>	<u>OUCG</u>	<u>More (Less)</u>
Current Rate = \$10.86	\$ 16.83	\$ 16.83	\$ -

EAST CHICAGO MUNICIPAL WATER DEPARTMENT
CAUSE NUMBER 44826

Reconciliation of Net Operating Income Statement Adjustments
Pro-forma Present Rates

	<u>Original</u> <u>Case in Chief</u>	<u>Settlement</u>	<u>Settlement</u> <u>More (Less)</u>
Operating Revenues			
Metered Sales	\$ (560,719)	\$ (560,719)	\$ -
	29,542	29,542	-
Miscellaneous Receipts	25,516	25,516	-
Total Operating Revenues	<u>(505,661)</u>	<u>(505,661)</u>	<u>-</u>
O&M Expense			
Salaries and Wages	(152,230)	(152,230)	-
Employee Benefits	(42,811)	(42,811)	-
Materials and Supplies	(50,419)	(50,419)	-
Purchased Power	(230,680)	(230,680)	-
Chemicals	24,337	24,337	-
Contractual Services	(44,306)	(44,306)	-
	32,000	32,000	-
	30,000	30,000	-
	2,138	2,138	-
Transportation Expense	-	-	-
Insurance	-	-	-
Fund 557 Allocation	60,354	60,354	-
Miscellaneous Expense	(157,544)	(157,544)	-
	(879)	(879)	-
Leak Detection and Valve Exercising		45,128	45,128
Depreciation Expense	-	-	-
Amortization Expense	-	-	-
Taxes Other than Income	(963)	(963)	-
	(3,060)	(3,060)	-
Total Operating Expenses	<u>(534,063)</u>	<u>(488,935)</u>	<u>45,128</u>
Net Operating Income	<u>\$ 28,402</u>	<u>\$ (16,726)</u>	<u>\$ (45,128)</u>

EAST CHICAGO MUNICIPAL WATER DEPARTMENT
CAUSE NUMBER 44826

COMPARATIVE BALANCE SHEET
As of December 31,

<u>ASSETS</u>	<u>2015</u>	<u>2014</u>	<u>2013</u>
Utility Plant:			
Utility Plant in Service	\$ 71,821,014	\$ 71,568,582	\$ 70,385,204
Construction Work in Progress			
Less: Accumulated Depreciation	(14,490,186)	(14,148,647)	(13,998,544)
Net Utility Plant in Service	<u>57,330,828</u>	<u>57,419,935</u>	<u>56,386,660</u>
Restricted Assets:			
Debt Service Fund	5,936,485	134,370	297,595
Debt Service Reserve			
Total Restricted Assets	<u>5,936,485</u>	<u>134,370</u>	<u>297,595</u>
Current Assets:			
Cash and Cash Equivalents	27,140	501,613	913,209
Accounts Receivable	926,653	933,105	738,316
Total Current Assets	<u>953,793</u>	<u>1,434,718</u>	<u>1,651,525</u>
Deferred Debits			
Other Deferred Debits			6,342
Total Deferred Debits	<u>-</u>	<u>-</u>	<u>6,342</u>
Total Assets	<u>\$ 64,221,106</u>	<u>\$ 58,989,023</u>	<u>\$ 58,342,122</u>

EAST CHICAGO MUNICIPAL WATER DEPARTMENT
CAUSE NUMBER 44826

COMPARATIVE BALANCE SHEET
As of December 31,

<u>LIABILITIES</u>	<u>2015</u>	<u>2014</u>	<u>2013</u>
Equity			
Retained Earnings	\$ 6,248,698	\$ 4,471,613	\$ 4,253,998
Paid in Capital	40,050,557	37,366,549	36,055,393
Total Equity	<u>46,299,255</u>	<u>41,838,162</u>	<u>40,309,391</u>
Contributions in Aid of Construction	3,628,145	3,628,145	3,628,145
Long-term Debt			
Bonds Payable	12,595,000	13,415,000	14,210,000
Total Long-term Debt	<u>12,595,000</u>	<u>13,415,000</u>	<u>14,210,000</u>
Current Liabilities			
Accounts Payable	72,511	77,416	166,886
Current Portion of Long-term Debt			
Accrued Interest			
Accrued Wages			
Accrued Taxes	(39,723)	30,299	27,700
Other Current Liabilities	<u>32,788</u>	<u>107,715</u>	<u>194,586</u>
Other Deferred Credits	277,877		
Miscellaneous Operating Reserves	1,388,040		
Total Liabilities	<u>\$ 64,221,105</u>	<u>\$ 58,989,022</u>	<u>\$ 58,342,122</u>

EAST CHICAGO MUNICIPAL WATER DEPARTMENT
CAUSE NUMBER 44826

COMPARATIVE INCOME STATEMENT
Twelve Months Ended December 31,

	2015	2014	2013
Operating Revenues			
Unmetered Water Sales	\$ 2,515	\$ 1,690	\$ 1,525
Residential Metered Water Sales	956,930	959,096	916,087
Commercial Metered Water Sales	416,343	437,514	395,125
Industrial Metered Water Sales	3,292,292	2,507,904	2,386,288
Public Authorities Metered Water Sales	137,533	131,288	136,691
Fire Protection - Public	93,780	375,120	-
Fire Protection - Private	320,058	38,549	320,157
Sales for Resale		465,977	492,507
Late Fees			
Miscellaneous Service Revenues	517,477	231,511	214,362
Other Operating Revenues	30,355	51,792	(3,066)
	<u>5,767,283</u>	<u>5,200,441</u>	<u>4,859,676</u>
Operating Expenses			
Salaries and Wages	1,402,601	1,385,892	1,415,953
Employee Benefits	543,023	581,459	578,740
Purchased Water			
Purchased Power	1,052,081	850,712	622,016
Chemicals	171,818	146,307	172,396
Materials and Supplies	168,756	162,524	176,372
Contractual Services	545,546	580,951	385,829
Transportation Expense			
Insurance	43,317		13,248
Miscellaneous Expense	157,510	514,422	456,229
Total O&M Expense	<u>4,084,652</u>	<u>4,222,267</u>	<u>3,820,783</u>
Depreciation Expense	341,539	175,077	164,269
Amortization Expense			
Taxes Other than Income	467,670	-	-
Total Operating Expenses	<u>4,893,861</u>	<u>4,397,344</u>	<u>3,985,052</u>
Net Operating Income	873,422	803,097	874,624
Other Income (Expense)			
Interest Income			
Gain (Loss) on Sale of Assets			
Other Income			
Interest Expense			
Total Other Income (Expense)	<u>-</u>	<u>-</u>	<u>-</u>
Net Income	<u>\$ 873,422</u>	<u>\$ 803,097</u>	<u>\$ 874,624</u>

EAST CHICAGO MUNICIPAL WATER DEPARTMENT
CAUSE NUMBER 44826

Pro-forma Net Operating Income Statement

	Year Ended 12/31/2015	Adjustments	Sch Ref	<i>Pro-forma</i> Present Rates	Adjustments	Sch Ref	<i>Pro-Forma</i> Proposed Rates
Operating Revenues							
Metered Sales	\$ 4,680,984	\$ (560,719) 29,542	Pet Pet	\$ 4,149,807	\$ 2,282,439	1	\$ 6,432,246
Sales to Public Authority	137,533			137,533	75,645	1	213,178
Fire Protection	415,702			415,702	228,641	1	644,343
Miscellaneous Receipts	264,061	25,516	Pet	289,577			289,577
Total Operating Revenues	<u>5,498,280</u>	<u>(505,661)</u>		<u>4,992,619</u>	<u>2,586,725</u>		<u>7,579,344</u>
O&M Expense							
Salaries and Wages	1,402,601	(152,230)	Pet	1,250,371			1,250,371
Employee Benefits	531,047	(42,811)	Pet	488,236			488,236
Materials and Supplies	169,779	(50,419)	Pet	119,360			119,360
Purchased Power	1,052,081	(230,680)	Pet	821,401			821,401
Chemicals	165,927	24,337	Pet	190,264			190,264
							-
Contractual Services	571,855	(44,306) 32,000 30,000 2,138	Pet Pet Pet Pet	591,687			591,687
Transportation Expense							-
Insurance	43,317			43,317			43,317
Fund 557 Allocation	307,146	60,354	Pet	367,500			367,500
Miscellaneous Expense	312,772	(157,544) (879)	Pet Pet	154,349			154,349
Leak Detection and Valve Exercising		45,128	5-1	45,128			45,128
Depreciation Expense	-			-			-
Amortization Expense	-			-			-
Taxes Other than Income	183,103	(963) (3,060)	Pet Pet	179,081	34,140	1	213,221
Total Operating Expenses	<u>4,739,628</u>	<u>(488,935)</u>		<u>4,250,693</u>	<u>34,140</u>		<u>4,284,833</u>
Net Operating Income	<u>\$ 758,652</u>	<u>\$ (16,726)</u>		<u>\$ 741,927</u>	<u>\$ 2,552,585</u>		<u>\$ 3,294,512</u>

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EAST CHICAGO MUNICIPAL WATER DEPARTMENT
CAUSE NUMBER 44826

Expense Adjustments

(1)

Amortization of Leak Detection and Water Main Valves Program

To amortize the costs of Petitioner's leak detection and valve exercising program over three years.

Leak Detection Program	\$	20,983
Valve Exercising Program		<u>114,400</u>
Total	\$	<u>135,383</u>
Amortize over Three Years		<u>3</u>

Adjustment - Increase (Decrease)

\$ 45,128

EAST CHICAGO MUNICIPAL WATER DEPARTMENT
 CAUSE NUMBER 44826

Extensions and Replacements/Depreciation

To reflect the average amount of debt service required over a five year period.

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Total</u>
Requested Depreciation	\$ 865,039	\$ 865,039	\$ 865,039	\$ 865,039	\$ 865,039	\$ 4,325,195
						-
						-
						-
						-
						-
	<u>\$ 865,039</u>	<u>\$ 865,039</u>	<u>\$ 865,039</u>	<u>\$ 865,039</u>	<u>\$ 865,039</u>	<u>\$ 4,325,195</u>
Divide by 5 Years						5
Average Annual Extensions and Replacements						<u>\$ 865,039</u>

**EAST CHICAGO MUNICIPAL WATER DEPARTMENT
CAUSE NUMBER 44826**

Working Capital

Operation & Maintenance Expense	\$ 4,250,693
Less: Purchased Water	-
Purchased Power	(821,401)
Rate Case Expense Amortization	-
Utility Receipts Tax	<u>(63,388)</u>
Adjusted Operation & Maintenance Expense	3,365,904
Times: 45 Day Factor	<u>0.125</u>
Working Capital Revenue Requirement	420,738
Less: Cash on Hand	<u>-</u>
Net Working Capital Revenue Requirement	420,738
Divide by: Amortization Period (Years)	<u>5</u>
Annual Working Capital Revenue Requirement	<u><u>\$ 84,148</u></u>

EAST CHICAGO MUNICIPAL WATER DEPARTMENT
 CAUSE NUMBER 44826

Debt Service

To reflect the average amount of debt service required over a five year period.

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Total</u>
Current & Proposed SRF Bonds \$	1,680,993	\$ 1,680,993	\$ 1,680,993	\$ 1,680,993	\$ 1,680,993	\$ 8,404,965
	<u>\$ 1,680,993</u>	<u>\$ 1,680,993</u>	<u>\$ 1,680,993</u>	<u>\$ 1,680,993</u>	<u>\$ 1,680,993</u>	<u>\$ 8,404,965</u>
Divide by 5 years						<u>5</u>
Average Annual Debt Service						<u>\$ 1,680,993</u>

EAST CHICAGO MUNICIPAL WATER DEPARTMENT
CAUSE NUMBER 44826

Debt Service Reserve

To reflect the average amount of debt service reserve required over a five year period.

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Total</u>
Current & Proposed SRF Bonds	\$ 64,332	\$ 64,332	\$ 64,332	\$ 64,332	\$ 64,332	\$ 321,660
	<u>\$ 64,332</u>	<u>\$ 64,332</u>	<u>\$ 64,332</u>	<u>\$ 64,332</u>	<u>\$ 64,332</u>	<u>\$ 321,660</u>
Divide by 5 years						<u>5</u>
Average Annual Debt Service Reserve						<u>\$ 64,332</u>

**EAST CHICAGO MUNICIPAL WATER DEPARTMENT
CAUSE NUMBER 44826**

Current and Proposed Rates and Charges

			<u>Current</u>	<u>Petitioner Proposed</u>	<u>OUCC Proposed</u>
Metered Rates - Monthly					
First	10,000	Gallons	\$ 1.19	\$ 1.84	\$ 1.84
Next	115,000	Gallons	1.16	1.80	1.80
Next	875,000	Gallons	1.14	1.77	1.77
Over	1,000,000	Gallons	1.10	1.71	1.71
Metered Rates - Monthly					
First	1,333	Cubic Feet	0.89	1.38	1.38
Next	15,334	Cubic Feet	0.87	1.35	1.35
Next	116,666	Cubic Feet	0.86	1.33	1.33
Over	133,000	Cubic Feet	0.83	1.28	1.28
<p style="margin-left: 100px;"><i>333 755</i> <i>1-18-2017</i></p>					
Minimum Charge - Monthly					
5/8"	Inch Meter		6.10	9.46	9.46
3/4"	Inch Meter		6.67	10.34	10.34
1"	Inch Meter		12.75	19.76	19.76
1-1/5"	Inch Meter		25.79	39.97	39.97
2"	Inch Meter		39.54	61.29	61.29
3"	Inch Meter		96.81	150.06	150.06
4"	Inch Meter		146.76	227.48	227.48
6"	Inch Meter		278.45	431.60	431.60
8"	Inch Meter		379.42	588.11	588.11
10"	Inch Meter		547.45	848.55	848.55
Fire Protection - Hydrants and Sprinklers - Monthly					
5/8"	Inch Connection		0.14	0.22	0.22
3/4"	Inch Connection		0.23	0.36	0.36
1"	Inch Connection		0.48	0.74	0.74
1-1/5"	Inch Connection		1.40	2.17	2.17
2"	Inch Connection		2.99	4.63	4.63
2-1/2"	Inch Connection		5.38	8.34	8.34
3"	Inch Connection		8.69	13.47	13.47
4"	Inch Connection		18.51	28.69	28.69
6"	Inch Connection		53.78	83.36	83.36
8"	Inch Connection		114.61	177.65	177.65
10"	Inch Connection		206.11	319.47	319.47
12"	Inch Connection		\$ 332.93	\$ 516.05	\$ 516.05

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE CITY OF EAST CHICAGO,)
INDIANA FOR AUTHORITY TO ISSUE)
BONDS, NOTES, OR OTHER OBLIGATIONS)
FOR AUTHORITY TO INCREASE ITS RATES) CAUSE NO. 44826
AND CHARGES FOR WATER SERVICE, AND)
FOR APPROVAL OF NEW SCHEDULES OF)
WATER RATES AND CHARGES.)

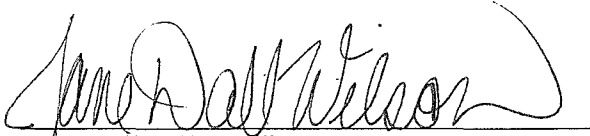
ADDENDUM TO SETTLEMENT AGREEMENT

This Addendum to the Joint Stipulation and Settlement Agreement (“Settlement Agreement”) is entered into this 19th day of January, 2016, by and between the City of East Chicago, Indiana, (“East Chicago”), and the Office of Utility Consumer Counselor (“OUCC”) as an amendment to the Settlement Agreement filed with the Commission on December 22, 2016.

Terms and Conditions of Addendum

1. By way of Petitioner’s response to the Commission’s January 13, 2017 Docket Entry (“Petitioner’s Response”), Petitioner has informed the Commission of a funding opportunity offered by the State Revolving Fund (“SRF”) to cover the expense of the customer-owned lead pipe replacement. As explained in Petitioner’s Response, the SRF has committed to provide an additional \$3.1 million in funding to Petitioner for that project, but Petitioner will nonetheless pay the same amount for the debt issue (including the additional funding) as was contemplated in the originally filed Settlement Agreement. Accordingly, the Settling Parties agree that the authorized amount of debt reflected in Paragraph 8 of the Settlement Agreement should be increased to \$18,000,000 per the terms reflected in Petitioner’s Response.

CITY OF EAST CHICAGO, INDIANA



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Peter Hatton (#7970-45)

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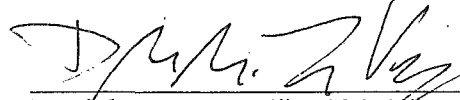
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INDIANA OFFICE OF THE UTILITY
CONSUMER COUNSELOR



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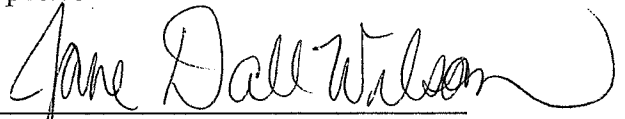
317-232-5923 (facsimile)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served this 20th day of March, 2017, electronically to:

Daniel LeVay
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