

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF)
CONSUMERS INDIANA WATER) CAUSE NO. 43962 U
COMPANY, INC., d/b/a AQUA INDIANA,)
INC. FOR A NEW SCHEDULE OF RATES) APPROVED: JUL 27 2011
AND CHARGES)

[Handwritten signatures and initials]

BY THE COMMISSION:

Carolene Mays, Commissioner

Gregory R. Ellis, Administrative Law Judge

On November 1, 2010, Consumers Indiana Water Company, Inc., d/b/a Aqua Indiana, Inc., ("Consumers" or "Applicant") filed its Small Utility Rate Application ("Application") with the Indiana Utility Regulatory Commission ("Commission") pursuant to the provisions of Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. Consumers filed additional information in support of the Application on November 10, 2010 including proofs of notice by publication and notice to customers as required by 170 IAC 14-1-2(b). On November 17, 2010, the Commission determined that the Application was complete. On November 22, 2010, Consumers filed a correction to Schedule P-2 that was part of the Application.

On January 31, 2011, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its report ("Report") with the Commission as required by 170 IAC 14-1-4. The Report detailed its review of the Application and made several recommendations to the Commission concerning the relief requested by Consumers. On February 14, 2011, Consumers filed notice of their intent to respond to the OUCC's Report. However, Consumers filed notice of their intent not to respond on March 2, 2011.

On March 23, 2011, the parties filed their *Joint Stipulation and Settlement Agreement* ("Settlement Agreement"). The Settlement Agreement recites that it resolves all of the matters in dispute between the Parties to this Cause.

Pursuant to Ind. Code § 8-1-2-61.5, a formal public hearing is not required in rate cases involving small utilities with fewer than 5,000 customers, unless a hearing is requested by at least ten customers, a public or municipal corporation, or the OUCC. No request for a hearing was received by the Commission. Accordingly, no hearing has been held.

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

1. **Notice and Commission Jurisdiction.** The evidence presented by Consumers in this Cause establishes that legal notice of the filing of the Application was published in accordance with applicable law, and that Consumers gave proper notice to its customers of the nature and extent of the relief it is seeking. Therefore, the Commission finds that due, legal, and timely notice of the matters in this proceeding was given and published as required by law. Consumers provides rural water service to fewer than 5,000 retail customers and does not serve another utility. Accordingly,

the provisions of 170 IAC 14-1-2 are applicable to the Application, and Consumers is entitled to request an increase in its rates and charges for service pursuant to Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. The Commission, therefore, has jurisdiction over Applicant and the subject matter of this Cause.

2. **Applicant's Characteristics.** Applicant is a public utility organized and existing under the laws of the State of Indiana. Applicant supplies water service to approximately 500 customers in Lake County, Indiana. Formed on February 19, 2002, Consumers is an Indiana corporation and a subsidiary of Aqua America, Inc. ("Aqua America"), which is headquartered in Bryn Mawr, Pennsylvania. The Commission granted Consumers an indeterminate permit to render water utility service to a specific area in Lake County, Indiana in its June 19, 2002 Order in Cause No. 42190.

Applicant's water system currently consists of approximately 498 feet of 12 inch ductile iron water main and 6,525 feet of 8 inch ductile iron water main. Source water is purchased from Aqua Illinois, Inc.'s Willowbrook Water Division in Crete Township, Will County, Illinois. Consumers is managed and operated by Aqua Indiana, Inc. ("Aqua Indiana"), which also is an Indiana corporation and subsidiary of Aqua America, Inc.

3. **Test Year.** The test year selected for determining Applicant's revenues and expenses reasonably incurred in providing water service to its customers included the twelve (12) months ended June 30, 2010. With adjustments for changes that are fixed, known, and measurable, the Commission finds that this test year is sufficiently representative of Consumers' normal operations to provide reliable data for ratemaking purposes.

4. **Existing Rates and Relief Requested.** Applicant's existing rates and charges were established in the Commission's June 19, 2002 Order in Cause No. 42190. In the Application, Consumers requested an across-the-board rate increase of 50.16% or \$110,123 in its rates and charges in order to increase its annual water utility revenue.

5. **OUC Report.** The OUC filed its Report on Consumers' Application on January 31, 2011. The Report indicated the OUC conducted a thorough analysis of the Utility's Application, reviewed the Utility's books and records, reviewed historical documents, and discussed various issues with team members. As a result, the OUC recommended several adjustments to Consumers' Application. Considering the adjustments, the OUC recommended that Consumers be allowed to increase rates by 30.23% compared with the 50.16% increase they requested in the Application.

A. **Rate Base** Applicant indicated a fair value rate base of \$914,862. This value is derived from \$1,716,435 in utility plant in service, reduced by accumulated depreciation of \$86,818, \$596,502 for Contributions In-Aid-Of Construction ("CIAC"), \$139,514 for customer advances, and the addition of \$21,261 for working capital. The OUC calculated the fair value rate base as \$899,576 with the difference being a reduction of \$15,287 in working capital. The OUC calculated the amount of working capital to be \$5,974.

B. **Cost of Capital.** The OUC and Applicant agree that a 50% debt and 50% equity capital structure is reasonable and a 5.75% cost of debt is appropriate. The parties disagree on the cost of equity. Applicant proposes an 11.0% cost of equity. The OUC suggested that cost

of equity should be less than 10.00% but proposes 10.50% in an effort to keep the costs of challenging Applicant's proposed rate to a minimum. Applicant proposed a weighted cost of capital of 8.375% and the OUCC proposed a weighted cost of capital of 8.125% based upon a cost of equity of 10.50%.

C. Revenue. The OUCC disagreed with Applicant's revenue normalization adjustment of \$3,008. The OUCC argued that it utilized a methodology accepted by the Commission to normalize residential customer growth during the test year. Using the OUCC's normalization method results in a *pro-forma* present rate revenue increase of \$1,641 for residential customers.

D. Expense Adjustments.

(1) Payroll Expense. The OUCC proposed modifications to Applicant's labor expense. Applicant based its labor expense on estimated labor costs and eight (8) employees for part of its test year, the period of July 2009 through January 2010. The OUCC noted that during the period of January 2010 through June 2010 Applicant based its labor expense on actual costs incurred and four (4) employees. Using test year as a baseline, Applicant included three percent (3%) pay increases for April 2010 and 2011 to increase costs by \$1,671. The OUCC annualized labor costs based upon the period January 2010 through November 2010 which totaled \$8,494. Annualizing the \$8,494, and allowing an April 2011 three percent increase came to an adjustment of \$17,992 less than the test year proposed by Applicant.

(2) Rate Case Expense. Applicant estimated its rate case expense to be \$31,165 consisting of \$20,000 for legal fees, \$9,375 for accounting, and \$1,790 for other expenses. The OUCC argued that Applicant did not provide sufficient evidence to support the cost estimate. The OUCC also pointed out that one of the purposes of the small utility rate case proceeding is to afford small utilities a mechanism for adjusting their rates without incurring rate case expense such as may be incurred in a general rate case. The OUCC recommended rate case expense be reduced to \$15,600 based upon the results of the OUCC's data request and the OUCC's experience with the typical rate case expense incurred in similar rate cases. The OUCC proposed a *pro-forma* increase of \$3,900 to operating expenses.

(3) IURC Fee. Applicant listed the IURC Fee under taxes other than income in its Petition. The OUCC reclassified the IURC Fee from taxes other than income to operating and maintenance expense. The OUCC calculations reduced the IURC fee from \$261 to \$259.

(4) Utility Receipts Tax. The OUCC increased the utility tax receipt from \$1,387 to \$1,602 based on the OUCC's present rate revenues of \$218,192 compared with the Applicant's revenues of \$219,559.

(5) Income Tax Expense. The OUCC indicated the Applicant utilizes the same methodology as that used by the OUCC for calculating State and Federal income taxes. The OUCC noted that differences in the calculations are due to the calculation of present rate operating revenues, present rate operating expenses, taxes other than income, state income taxes and synchronized interest. The differences reduced the adjustment decrease from \$16,467 to \$7,313.

(6) **Property Tax Expense.** In their Application, Consumers adjusted property tax expense by \$14,787 to account for an expected increase in property taxes. In its Report, the OUCC recommended the property tax expense not be allowed because the adjustment is not fixed, known or measurable. The OUCC relied on a December 22, 2010 communication from the Indiana Department of Local Government Finance indicating that Consumers has never filed an Annual Report Form UD-45, was not in compliance with filing their property tax returns, and there was no way to verify Consumers' property tax liability. In an email to the OUCC dated January 6, 2011, Consumers confirmed that Annual Report Form UD-45 for 2010 had not yet been filed.

E. **Recommendations.** The OUCC recommended that Applicant be allowed to increase its rates by 30.23% compared to the 50.16% increase requested by the Applicant. The OUCC's Report also noted that Consumers is not a member of the Indiana Water/Wastewater Agency Response Network ("InWARN") which offers assistance to and from other Indiana utilities in the event of a flood, tornado, or other emergency. The OUCC also noted that Consumers Illinois, which is an affiliate of Applicant and also owned by Aqua America, is associated with the Illinois Water/Wastewater Agency Response Network ("IIWARN"). IIWARN is the Illinois program that is similar to InWARN. The OUCC recommended that Consumers Indiana investigate whether it has reciprocity with the IIWARN program or will it have to become a member of the InWARN Network to obtain assistance from InWARN in the event that it is needed. The OUCC requests that Applicant inform the Commission and the OUCC whether reciprocity exists.

6. **Consumers' Response.** Consumers filed *Petitioner's Notice of Intent to Respond* on February 14, 2011, which indicated Consumers would submit a response to the OUCC's Report on or before March 2, 2011. On March 2, 2011, Consumers filed *Petitioner's Notice of No Response* which indicated Consumers and the OUCC had reached an agreement in principle resolving all matters at issue in this Cause.

7. **Settlement Agreement.** On March 23, 2011, the OUCC and Consumers filed their Settlement Agreement with the Commission. Consumers agreed to accept all of the OUCC's adjustments except the property tax adjustment and \$1,010 in federal income tax expense from among Consumer's pro forma operating expenses. In regard to the property tax expense, Consumers demonstrated that on February 17, 2011 it had filed its Annual Report Form UD-45 for 2010 and, as a result, a property tax liability of \$14,608 is now fixed, known and measurable for that year. Consumers also demonstrated that the income tax expense formula used to calculate the values in the pro forma schedules from the January 31, 2011 report resulted in a reduction of income tax expense of \$1,010. The OUCC agreed with Consumers position on its property tax expense and income tax expense. The Settlement Agreement recites that it addresses and reflects Consumers' and the OUCC's agreement on all of the issues before the Commission in this Cause.

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.

Furthermore, any Commission decision, ruling, or order – including the approval of a settlement – must be supported by specific findings of fact and sufficient evidence, *United States Gypsum*, 735 N.E. 2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N. E. 2d 330, 331 (Ind. 1991)). 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.

8. Discussion and Findings.

A. Rate Base. Applicant originally requested an increase in its rates reflecting a used and useful rate base of \$914,862, calculated on an original cost basis as of June 30, 2010. The OUCC’s Report and accompanying schedules proposed a fair value rate base of \$899,576. The OUCC’s calculation of rate base differs only in the amount of working capital added. The Parties have agreed to use \$899,580 as the proposed rate base value. This value was arrived at by taking \$1,629,617, which amount is the original cost less accumulated depreciation of Consumers’ properties in service, increased by \$5,979 for working capital and reduced by \$596,502 and \$139,514 for CIAC and customer advances for construction, respectively. In light of agreement of the Parties, and recognizing this is a small utility filing, the Commission finds the Settlement Agreement’s proposed rate base value of \$899,580 is reasonable on an original cost basis and will establish Applicant’s revenue requirement on the basis of such rate base.

B. Allowed Return. Applicant proposed an 8.375% rate of return with an 11.0% cost of common equity. The OUCC proposed a rate of return of 8.125%, which reflects a common equity cost rate of 10.5%. The Parties have agreed to a rate of return of 8.125% with a common cost of equity of 10.5% in the Settlement Agreement. Having considered the evidence of record and giving such weight to the evidence as we deem appropriate, we find that a rate of return of 8.125%, which reflects a common cost of equity of 10.5% will adequately and fairly compensate Consumers for its investments, while maintaining Consumers financial viability and providing water utility service for the convenience of the public.

C. Revenues at Present Rates. The Applicant initially calculated pro forma total operating revenues and pro forma net operating income under its present rates and charges as \$224,557 and \$12,274, respectively. In the OUCC’s Report, the OUCC calculated pro forma total operating revenues and pro forma net operating income as \$223,190 and \$33,960, respectively. In the Settlement Agreement, the Parties agreed to adjust pro forma total operating revenues and pro forma net operating income to \$223,190 and \$25,272 respectively. The Parties agree that adjusted net operating income of \$25,272 is insufficient to provide a fair return on the fair value of its properties used and useful in providing water service for the convenience of the public. Having examined the calculations above, the Commission finds the calculations represent the agreement of the Parties, are supported by sufficient evidence, and should be approved.

D. Allowed Increase. Consumers proposed a rate increase of 50.16% or \$110,123 in its Petition. The OUCC recommended a revenue increase of \$65,958 or 30.23%. The Parties agreed that Consumers’ current monthly recurring rates and charges should be increased so as to produce additional operating revenues of \$81,842 and, together with other revenues, produce

total pro forma operating revenues of \$305,032. The amount of the additional operating revenues represents a 37.51% increase over that produced by Consumers' present monthly recurring rates and charges. Having given appropriate weight to the need for Consumers to discharge its public duties and to earn a return commensurate with that earned by enterprises of corresponding risk, the Commission finds that the monthly recurring rates and charges estimated to produce, together with other revenues, operating revenues of \$305,032 is just and fair and should allow Consumers the opportunity to earn a reasonable return on its property dedicated to providing water utility service to the public.

E. WARN Program. The OUCC recommended that Petitioner investigate to determine whether it is covered under the InWARN program since it is a participant in the IIWARN program. As part of the Settlement Agreement, Consumers agrees to participate in the InWARN program and become a member of InWARN no later than 90 days from the date of the Settlement Agreement.

9. Revenue Requirements. Applicant originally proposed a net revenue requirement of \$110,123 or 50.16% across-the-board increase in rates. The OUCC proposed a net revenue requirement of \$65,957 or 30.23 % increase in rates. The Parties settled on \$81,842 or 37.51% increase in net revenue. A comparison of Applicant's revenue requirements, the OUCC's proposed revenue requirements and the revenue requirements in the Settlement Agreement are shown below:

<u>Revenue Requirements:</u>	Per Petitioner	Per OUCC	Per Settlement
Fair value/Original Cost Rate Base	\$ 914,862	\$ 899,576	\$ 899,580
Times: Weighted Cost of Capital	8.375%	8.125%	8.125%
Required NOI	76,620	73,091	73,091
Less NOI at present rates	12,274	33,960	25,272
Increase in NOI required	64,346	39,131	47,819
Gross Revenue Conversion Factor	1.7114	1.6856	1.7115
Operating Revenue Increase	\$ 110,123	\$ 65,957	\$ 81,842

The percentage rate increase required is calculated by taking the revenue increase required and dividing it by the total revenues subject to increase. The Commission finds the 37.51% increase proposed by the Parties to be reasonable and supported by the evidence.

10. Conclusion. The evidence of record indicates that the Parties have provided the Commission with sufficient information to determine that the public interest can best be served by accepting Applicant's small utility filing, as modified by the Settlement Agreement between the Parties. Therefore, based on the evidence presented, the Commission finds that an across-the-board rate increase of 37.51% or \$81,842 should be approved for Applicant.

The parties agree that the Settlement Agreement should not be used as precedent in any other proceeding or for any other purpose, except 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, (*Ind. Util. Reg. Comm'n*, March 19, 1997).

11. **Effect on Rates.** An average customer using 5,000 gallons of water per month will experience a monthly bill increase from \$25.44 to \$34.98 per month.

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

1. Consistent with the above findings, Consumers Water Corporation is hereby authorized to increase its rates and charges by \$81,842 annually, which represents a 37.51% across-the-board increase in its water service rates and charges.

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

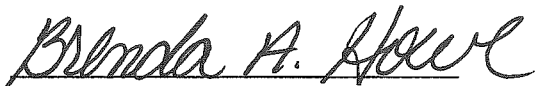
3. Consumers Water Corporation shall become a member of the Indiana Water/Wastewater Response Network as soon as possible, but in no event no later than 90 days from the date of the Settlement Agreement.

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

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: JUL 27 2011

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



**Brenda A. Howe
Secretary to the Commission**

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FILED

STATE OF INDIANA

MAR 23 2011

INDIANA UTILITY REGULATORY COMMISSION

INDIANA UTILITY
REGULATORY COMMISSION

IN THE MATTER OF PETITION OF CONSUMERS)
INDIANA WATER COMPANY, INC., d/b/a AQUA)
INDIANA, INC. FOR AUTHORITY TO IMPLEMENT) CAUSE NO. 43962-U
A NEW SCHEDULE OF RATES AND CHARGES)
FOR WATER UTILITY SERVICE WITHIN LAKE)
COUNTY, INDIANA)

JOINT STIPULATION AND SETTLEMENT AGREEMENT

On November 1, 2010, Consumers Indiana Water Company, Inc., d/b/a Aqua Indiana, Inc., ("Consumers") filed an application, pursuant to the provisions of Indiana Code § 8-1-2-61.5 and 170 IAC 14-1, to increase its monthly recurring rates and charges for water utility service on an across-the-board basis by approximately 50.16% (the "Application"). On January 31, 2011, the Indiana Office of Utility Consumer Counselor ("OUCC") filed a report with the Commission as required by 170 IAC 14-1-4 (the "Report"). The Report recommended that the Commission only approve a 30.23% increase in Consumers' recurring monthly rates and charges. The Report also made a recommendation concerning Consumers participation in a water/wastewater response network.

Following the filing of the Report, the Parties met in order to resolve the matters at issue in this Cause. Consumers expressed its willingness to accept for purposes of this Cause only the financial and accounting presentation in the Report with the exception of the OUCC's elimination of property tax expense and \$1,010 in federal income tax expense from among Consumers' pro forma operating expenses. In regard to the property tax expense, Consumers demonstrated that on February 17, 2011 it had filed its

UD-45 report for 2010 with the Indiana Department of Local Government Finance and, as a result, a property tax liability of \$14,608 is now fixed, known and measurable for that year. Consumers also demonstrated that the income tax expense formula used to calculate the values in the pro forma schedules from the January 31, 2011 report resulted in a reduction of income tax expense of \$1,010 that does not reflect to true liability of the Company under the agreed upon revenue requirement and resulting operating expenses. The OUCC agreed with Consumers position on its property tax expense and income tax expense.

Consumers expressed its agreement with the OUCC's recommendation that Consumers participate in an appropriate water/wastewater response network. As a result, Consumers will become a member of the Indiana Water/Wastewater Response Network.

There being no remaining matters in dispute, the Parties entered into the following agreement resolving all matters at issue in this Cause:

1. Compliance with Regulatory Requirements. Consumers is a public utility providing water utility service to fewer than 5,000 retail customers and does not extensively serve another utility. Also, Consumers is not a not-for-profit utility, conservancy district or municipal utility and, accordingly, the provisions of 170 IAC 14-1-2(a)(5) and (6) are not applicable to the Application. Consumers is entitled to request an increase in its rates and charges for service pursuant to, and the Application satisfies all of the requirements of, Indiana Code § 8-1-2-61.5 and 170 IAC 14-1.

2. Test Year. The period used by both Consumers and the OUCC for determining Consumers' revenues and expenses recently incurred in providing water utility service to its customers was the twelve months ended June 30, 2010. With

adjustments for changes that are fixed, known and measurable, this test year is sufficiently representative of Consumers' normal operations to provide reliable information for ratemaking purposes.

3. Rate Base. For purposes of this Settlement Agreement and proceeding, the net original cost depreciated value of Consumers' utility properties used and useful for the convenience of the public as of June 30, 2010 is \$1,629,617, which amount also is the fair value of Consumers' properties in service and used and useful for the convenience of the public as of June 30, 2010. This value should be increased by \$5,979 for working capital and reduced by \$596,502 and \$139,514 for contributions in aid of construction and customer advances for construction, respectively, to produce a total of \$899,580, which amount is Consumers' fair value rate base for purposes of this proceeding.

4. Allowed Return. A rate of return of 8.125%, which reflects a common equity cost rate of 10.5%, will adequately and fairly compensate Consumers for its investments, while maintaining Consumers' financial viability. Based on that rate of return, and the fair value rate base of \$899,580 shown above, Consumers is entitled to earn a fair return of \$73,091 on the fair value of its properties used and useful in providing water utility service for the convenience of the public.

5. Revenues at Present Rates. As shown on Joint Settlement Exhibit 1, Schedule 4, Consumers' pro forma total operating revenues and pro forma net operating income under its present rates and charges are \$223,190 and \$25,272, respectively. That amount of net operating income (i.e., \$25,272) is insufficient to provide a fair return on the fair value of its properties used and useful in providing water utility service for the

convenience of the public, and is therefore unjust and unreasonable and should be increased.

6. Allowed Increase. As shown in Joint Settlement Exhibit 1, Schedules 1 and 4, Consumers' current monthly recurring rates and charges should be increased so as to produce additional operating revenues of \$81,842 and, together with other revenues, produce total pro forma operating revenues of \$305,032. The amount of the additional operating revenues (i.e., \$81,842) represents a 37.51% increase over that produced by Consumers' present monthly recurring rates and charges and reflects the effect of the increased revenue on federal and state income taxes, Indiana gross receipts tax and the Commission's fee. Giving appropriate weight to the need for Consumers to discharge its public duties and to earn a return commensurate with that earned by enterprises of corresponding risk, monthly recurring rates and charges estimated to produce, together with other revenues, operating revenues of \$305,032 is just and fair and should allow Consumers the opportunity to earn a reasonable return on its property dedicated to providing water utility service to the public.

7. New Schedule of Rates and Charges. A proposed schedule of rates and charges is set forth in Joint Settlement Exhibit 2. The monthly recurring rates and charges, non-recurring rates, charges, fees and other terms provided for in the proposed schedule attached as Joint Settlement Exhibit 2 are sufficient to produce the results described in Paragraph 6 above and are each otherwise fair, just, reasonable and non-discriminatory.

8. WARN Program. Consumers will become a member of the Indiana Water/ Wastewater Response Network as soon as possible, but in no event no later than 90 days from the date of this Settlement Agreement.

9. Waiver of Hearing and Admission of Evidence. The Parties hereby waive any right they may have to request a public hearing in this Cause. If an evidentiary hearing is held, the OUCC stipulates to the admission into evidence of the Application and waives any cross-examination of Consumers' witnesses. Similarly, Consumers stipulates to the admission into evidence of the Report and waives any cross-examination of the OUCC's witnesses at any evidentiary hearing in this Cause. The Parties shall jointly sponsor this Settlement Agreement and Joint Settlement Exhibits 1 through 3 at any evidentiary hearing in this Cause.

10. Mutual Conditions of Settlement Agreement. The terms and conditions set forth in this Settlement Agreement are supported by the evidence and based on the Parties' independent review of the evidence, represent a fair, reasonable and just resolution of all the issues in this Cause, subject to their incorporation in a Final Order in the form attached as Joint Settlement Exhibit 3 without modification or further condition, which may be unacceptable to either Party. If the Commission does not approve this Settlement Agreement in its entirety and incorporate it into a Final Order as provided above, it shall be null and void and deemed withdrawn, unless otherwise agreed to in writing by the Parties. The Parties represent that there are no other agreements in existence between them relating to the matters covered by this Settlement Agreement.

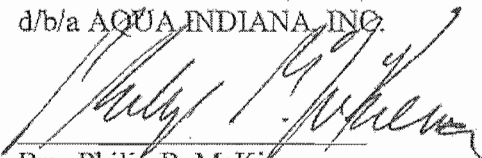
11. Non-Precedential. As a condition precedent to the Settlement Agreement, the Parties condition their agreement on the Commission providing assurance in the Final

Order issued herein that it is not the Commission's intent to allow this Settlement Agreement or the Final Order approving it to be used as an admission or as a precedent against the signatories hereto except to the extent necessary to enforce the terms of the Settlement Agreement. This Settlement Agreement shall not be cited as precedent by either Party against the other or be deemed an admission by any Party in any other proceeding except as necessary to enforce its terms before the Commission, or before any court of competent jurisdiction on these particular issues. This Settlement Agreement is solely the result of compromise in the settlement process and except as provided herein is without prejudice to and shall not constitute a waiver of any position that either of the Parties may take with respect to any or all of the items resolved herein in any future regulatory or other proceedings and, failing approval by the Commission, shall not be admissible in any subsequent proceedings.

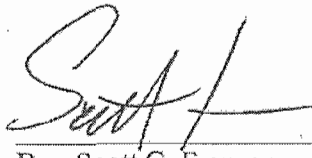
12. Authority to Stipulate. The undersigned have represented and agreed that they are fully authorized to execute this Settlement Agreement on behalf of their designated clients who will be bound thereby.

Respectfully submitted,

CONSUMERS INDIANA
WATER COMPANY, INC.,
d/b/a AQUA INDIANA, INC.


By: Philip B. McKiernan
Attorney for Consumers Indiana
Water Company, Inc.,
d/b/a Aqua Indiana, Inc.

INDIANA OFFICE OF UTILITY
CONSUMER COUNSELOR


By: Scott C. Franson,
Its Attorney

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

***** Settlement Schedules *****

**Comparison of Petitioner's and OUCC's
Revenue Requirements**

	Per Petitioner	Per OUCC	Per Settlement	Sch Ref
Original Cost Rate Base	\$ 914,862	\$ 899,576	\$ 899,580	8
Times: Weighted Cost of Capital	8.375%	8.125%	8.125%	9
Net Operating Income Required for Return on Rate Base	76,620	73,091	73,091	
Less: Adjusted Net Operating Income	12,274	33,960	25,272	4
Net Revenue Requirement	64,346	39,131	47,819	
Gross Revenue Conversion Factor	171.1425%	168.5570%	171.1502%	1
Recommended Revenue Increase	\$ 110,123	\$ 65,958	\$ 81,842	
Recommended Percentage Increase	50.16%	30.23%	37.51%	

<u>Current Rate for 5,000 Gallons</u>	Per Petitioner	Per OUCC	Per Settlement
Current Rate = \$25.44	\$ 38.20	\$ 33.13	\$ 34.98

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

***** Settlement Schedules *****

Gross Revenue Conversion Factor

	Per Petitioner	Per OUCC	Per Settlement	
1 Gross Revenue Change	100.0000%	100.0000%	100.0000%	\$ 81,842
2 Less: Bad Debt Rate	0.110100%	0.113000%	0.113000%	92
3 Sub-total	99.8899%	99.8870%	99.8870%	
4 Less: IURC Fee	0.118794%	0.118971%	0.118791%	97
5 Income Before State Income Taxes	99.77111%	99.7682%	99.7682%	
6 Less: State Income Tax (8.5% of Line 5)	8.4805%	8.4803%	8.4803%	6,940
7 Utility Receipts Tax (1.4% of Line 3)	1.4000%	1.3984%	1.3984%	1,144
8 Income Before Federal Income Taxes	89.8906%	89.8895%	89.8895%	
9 Less: Federal income Tax (35% of Line 8)	31.4598%	30.5624%	31.4613%	25,749
10 Change in Operating Income	58.4309%	59.3271%	58.4282%	\$ 47,820
11 Gross Revenue Conversion Factor	171.14246%	168.55703%	171.15023%	

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

***** Settlement Schedules *****

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

	<u>Per Petitioner</u>	<u>Per OUCC</u>	<u>Per Settlement</u>
Operating Revenues			
Water Revenues	\$ 3,008	\$ 1,641	\$ 1,641
Other Water Revenues	-	-	-
Total Operating Revenues	<u>3,008</u>	<u>1,641</u>	<u>1,641</u>
O&M Expense			
Salaries	1,671	(17,992)	(17,992)
Rate Case Expense	7,791	3,900	3,900
IURC Fee	261	259	259
Bad Debts	-	-	-
Depreciation Expense	11,013	11,013	11,013
Taxes Other than Income:			
Payroll Tax	-	-	-
Property Tax	14,787	-	14,608
Utility Receipts Tax	1,387	1,602	1,602
State Income Tax	(3,311)	(151)	(1,393)
Federal Income Tax	<u>(13,156)</u>	<u>(1,242)</u>	<u>(5,920)</u>
Total Operating Expenses	<u>20,443</u>	<u>(2,611)</u>	<u>6,078</u>
Net Operating Income	<u>\$ (17,435)</u>	<u>\$ 4,251</u>	<u>\$ (4,437)</u>

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

COMPARATIVE BALANCE SHEET
As of

<u>ASSETS</u>	<u>June 30,</u> <u>2010</u>	<u>December 31,</u> <u>2009</u>
Utility Plant:		
Utility Plant in Service	\$1,716,435	\$ 1,716,435
Construction Work in Progress	17,086	3,993
Less: Accumulated Depreciation	(86,818)	(76,770)
Net Utility Plant in Service	<u>1,646,703</u>	<u>1,643,658</u>
Current Assets:		
Cash and Cash Equivalents	-	-
Accounts Receivable	7,988	9,655
Accounts Receivable Assoc Companies	84,186	74,479
Accumulated Provision Uncollectible Accts	(51)	(70)
Accrued Utility Revenues	<u>12,308</u>	<u>11,251</u>
Total Current Assets	<u>104,431</u>	<u>95,315</u>
 Total Assets	 <u>\$1,751,134</u>	 <u>\$ 1,738,973</u>

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

COMPARATIVE BALANCE SHEET

As of

	June 30, 2010	December 31, 2009
<u>LIABILITIES</u>		
Equity		
Retained Earnings	\$ 672,700	\$ 672,700
Paid in Capital	162,192	154,633
Total Equity	<u>834,892</u>	<u>827,333</u>
Current Liabilities		
Accounts Payable	7,690	(3,682)
Accounts Payable to Associated Companies	47,368	47,263
Miscellaneous	-	12,264
Accrued Taxes	(23,118)	(28,307)
Other Current Liabilities	<u>31,940</u>	<u>27,538</u>
Deferred Credits		
Advances for Construction	139,514	139,514
Other Deferred Credits	148,286	148,286
	<u>287,800</u>	<u>287,800</u>
Contributions in Aid of Construction	596,502	596,302
Total Liabilities	<u>\$1,751,134</u>	<u>\$ 1,738,973</u>

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

COMPARATIVE INCOME STATEMENT
Twelve Months Ended

	June 30, 2010	December 31, 2009
Operating Revenues		
Residential Sales	\$ 204,471	\$ 200,876
Commercial Sales	6,619	5,669
Public Fire Protection	5,461	4,928
Late Fees	2,910	3,255
Other Water Revenues	2,088	2,088
Total Operating Revenues	<u>221,549</u>	<u>216,816</u>
Operating Expenses		
Salaries and wages	28,491	42,192
Employee Pensions and Benefits	1,189	-
Contractual Services	27,798	26,272
Purchased Water	99,281	117,842
Miscellaneous	3,507	4,966
Bad debts	244	(2,476)
Transportation	(3)	-
IURC Fee	248	-
Total O&M Expense	<u>160,755</u>	<u>188,796</u>
Depreciation Expense	22,167	24,845
Taxes Other than Income:		
Payroll Tax	271	-
Utility Receipts Tax	1,453	2,897
Total Taxes Other Than Income	<u>1,724</u>	<u>2,897</u>
Income Taxes:		
State Income Tax	1,592	(1,625)
Federal Income Tax	5,602	(6,593)
Total Income taxes	<u>7,194</u>	<u>(8,218)</u>
Total Operating Expenses	<u>191,840</u>	<u>208,320</u>
Net Operating Income	29,709	8,496
Other Income (Expense)		
Interest on Debt to Associated Companies	(18,041)	(19,282)
Amortization of Debt Discount	(123)	(123)
Total Other Income (Expense)	<u>(18,164)</u>	<u>(19,405)</u>
Net Income	<u>\$ 11,545</u>	<u>\$ (10,909)</u>

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

***** Settlement Schedules *****

Pro-forma Net Operating Income Statement

	Year Ended 6/30/2010	Adjustments	Sch Ref	Pro-forma Present Rates	Adjustments	Sch Ref	Pro-Forma Proposed Rates
Water Revenues	\$ 216,551	\$ 1,641	5-1	\$ 218,192	\$ 81,842	1	\$ 300,034
Late Fees	2,910	-		2,910	-		2,910
Other Water Revenues	2,088	-		2,088	-	1	2,088
Total Operating Revenues	<u>221,549</u>	<u>1,641</u>		<u>223,190</u>	<u>81,842</u>		<u>305,032</u>
O&M Expense	160,755			146,922			147,111
Payroll Expense		(17,992)	6-1				
Rate Case Expense		3,900	6-2				
IURC Fee		259	6-4		97	1	
Bad Debt Expense					92	1	
Depreciation Expense	22,167	11,013	6-3	33,180			33,180
Taxes Other than Income:							
Payroll Tax	271			271			271
Property Tax	-	14,608	7-3	14,608			14,608
Utility Receipts Tax	1,453	1,602	7-1	3,055	1,144	1	4,199
Income Taxes:							
State Income Tax	1,592	(1,393)	7-2	199	6,940	1	7,139
Federal Income Tax	5,602	(5,920)	7-2	(318)	25,749	1	25,431
Total Operating Expenses	<u>191,840</u>	<u>6,078</u>		<u>197,918</u>	<u>34,022</u>		<u>231,940</u>
Net Operating Income	<u>\$ 29,709</u>	<u>\$ (4,437)</u>		<u>\$ 25,272</u>	<u>\$ 47,820</u>		<u>\$ 73,091</u>

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

***** Settlement Schedules *****

Revenue Adjustments

(1)

Residential Normalization

To normalize residential customer growth during the test year.

	Number of Customers	Customer Growth	Remaining Billings	Additional Annual Billings	Consumption 1,000's of Gallons	Sales
July '09	484				4,451.1	\$ 15,973
August	483	(1)	1	(1)	5,690.8	25,521
Sept	485	2	2	4	5,092.4	23,083
Oct	486	1	3	3	3,821.0	19,335
Nov	486	-	4	-	2,539.2	10,616
Dec	488	2	5	10	2,128.2	15,710
Jan. '10	488	-	6	-	2,697.4	14,289
Feb	489	1	7	7	2,060.4	14,103
Mar	492	3	8	24	2,155.7	15,077
Apr	492	-	9	-	2,137.7	14,748
May	492	-	10	-	2,868.7	16,963
June	492	-	11	-	3,367.3	19,053
Totals	<u>5,857</u>	<u>8</u>		<u>47</u>	<u>39,009.9</u>	<u>\$ 204,471</u>

Test Year Residential Water Revenues \$ 204,471

Divide By: Test Year Residential Customer Billings 5,857

Test Year average residential monthly water bill \$ 34.91

Times: Additional residential customer billings 47

Adjustment Increase (Decrease) \$ 1,641

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

***** Settlement Schedules*****

Expense Adjustments

(1)

Payroll Expense

To adjust operating expenses for payroll expense increase.

Pro Forma Payroll:

Actual expense Feb. 2010 - June 2010	\$	3,870	
Actual expense July 2010 - Nov. 2010		4,624	
		<u>8,494</u>	
Annualized Expense		10,193	
Times: 3% wage increase 4/1/11		<u>1.03</u>	
Pro forma payroll expense			10,499
Less: Test year payroll expense			<u>28,491</u>
Adjustment Increase (Decrease)			<u>\$ (17,992)</u>

(2)

Rate Case Expense

To adjust operating expenses to reflect cost of case.

Estimated Rate Case Costs

Legal Fees	\$	10,000	
Accounting Fees		4,700	
Other		<u>900</u>	
		15,600	
Amortize over 4 years		<u>4</u>	
Adjustment Increase (Decrease)			<u>\$ 3,900</u>

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

***** Settlement Schedules*****

Expense Adjustments

(3)

Depreciation Expense

To adjust depreciation expense to reflect current plant in service.

Utility Plant in Service	\$ 1,716,435
Less: Organization costs	(46,621)
Franchises	(10,835)
Depreciable Utility Plant in Service	<u>1,658,979</u>
Rate	<u>2.00%</u>
	33,180
Less: Test Year	<u>(22,167)</u>
Adjustment Increase (Decrease)	<u>\$ 11,013</u>

(4)

IURC Fee

To adjust operating expense to reflect the pro forma IURC fee at present rates.

Pro forma sales of water at present rates	\$ 218,192
Times: IURC fee	<u>0.00118925</u>
Adjustment Increase (Decrease)	<u>\$ 259</u>

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

***** Settlement Schedules *****

Tax Adjustments

(1)

Utility Receipts Tax

To adjust operating expense to reflect pro forma utility receipts tax

Pro forma present rates	\$ 218,192
Rate	<u>0.014</u>
	3,055
Less: test year	<u>1,453</u>

Adjustment Increase (Decrease) \$ 1,602

(2)

Income Tax Expense

To adjust operating expense to normalize state and federal income tax expense.

	Federal Taxes	State Taxes
Operating revenues-Present rates	\$ 223,190	\$ 223,190
O&M expense - present rates	146,922	146,922
Depreciation	33,180	33,180
Taxes other than income	17,934	14,879
State income taxes	<u>199</u>	<u>n/a</u>
Subtotal	24,954	28,208
Less: synchronized interest	<u>(25,863)</u>	<u>(25,863)</u>
Taxable income	(909)	2,345
Times: rate	<u>35%</u>	<u>8.50%</u>
Tax at present rates	(318)	199
Less: test year expense	<u>(5,602)</u>	<u>(1,592)</u>
	<u>(5,920)</u>	<u>(1,393)</u>

Adjustment Increase (Decrease) \$ (7,313)

(3)

Property Tax

To adjust operating expense to reflect property taxes.

Assessed Value	\$ 1,050,753	
Tax Rate St. John's Township	94%	1.3533% \$ 13,308
Tax Rate Hanover Township	6%	1.9295% <u>1,300</u>

Adjustment Increase (Decrease) \$ 14,608

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

***** Settlement Schedules *****

Calculation of Rate Base

	Per Petitioner	Per OUCG	Per Settlement
Utility Plant in Service at 06/30/10	\$ 1,716,435	\$ 1,716,435	\$ 1,716,435
Less: Accum Depreciation	(86,818)	(86,818)	(86,818)
Net Utility Plant	1,629,617	1,629,617	1,629,617
Add: Working Capital	21,261	5,974	5,979
Less: CIAC	(596,502)	(596,502)	(596,502)
Customer Advances for Construction	(139,514)	(139,514)	(139,514)
Total Original Cost Rate Base	914,862	\$ 899,576	\$ 899,580

Working Capital Calculation

Operation & Maintenance Expense	\$ 170,090	\$ 147,075	\$ 147,111
Less: Purchased Water	-	99,281	99,281
Purchased Power	-	-	-
Rate Case Expense Amortization	-	-	-
Adjusted Operation & Maintenance Expense	170,090	47,794	47,830
Times: 45 Day Factor	0.125	0.125	0.125
Working Capital Requirement	\$ 21,261	\$ 5,974	\$ 5,979

CONSUMERS INDIANA WATER COMPANY, INC
CAUSE NUMBER 43962-U

***** Settlement Schedules *****

Pro forma Capital Structure
As of June 30, 2010

	<u>Amount</u>	<u>Percent of Total</u>	<u>Cost</u>	<u>Weighted Cost</u>
Long-Term Debt	\$ 449,790	50.00%	5.750%	2.875%
Common Equity	449,790	50.00%	10.500%	5.25%
Total	<u>\$ 899,580</u>	<u>100.00%</u>		<u>8.125%</u>

Synchronized Interest Calculation

Total Original Cost Rate Base	\$ 899,580
Times: Weighted Cost of Debt	<u>2.875%</u>
Synchronized Interest Expense	<u>\$ 25,863</u>

Joint Settlement Exhibit 2

CONSUMERS INDIANA WATER COMPANY D/B/A
AQUA INDIANA, INC.
LAKE COUNTY, INDIANA

I.U.R.C. No. W-1
First Revised Sheet No. 1

CONSUMERS INDIANA WATER COMPANY

D/B/A

AQUA INDIANA, INC.

SCHEDULE OF RATES

FOR

WATER SERVICE

Applying to the following Territory:

Lake County, Indiana

Issued By: Thomas M. Bruns, President,
5750 Castle Creek Parkway N. Drive, Suite 314, Indianapolis, Indiana 46250

CONSUMERS INDIANA WATER COMPANY D/B/A
AQUA INDIANA, INC.
LAKE COUNTY, INDIANA

I.U.R.C. No. W-1
First Revised Sheet No. 2

INDEX

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Customer Charges	3
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Public Fire Protection Charges	4
Billing Terms	5
Rules, Regulations and Conditions of Service	5
Water Plant Fund	6
Miscellaneous Charges	7

Issued By: Thomas M. Bruns, President,
5750 Castle Creek Parkway N. Drive, Suite 314, Indianapolis, Indiana 46250

CONSUMERS INDIANA WATER COMPANY D/B/A
AQUA INDIANA, INC.
LAKE COUNTY, INDIANA

I.U.R.C. No. W-1
Second Revised Sheet No. 3
Canceling First Revised Sheet No. 3

WATER SERVICE

1. CUSTOMER CHARGES

All metered general water service customers shall pay a customer charge based on the size of meter or meters installed regardless of the amount of water used.

<u>Meter Size</u>	<u>Positive Displacement</u>	<u>Monthly Charge</u> <u>Turbine</u>
5/8"	\$ 8.18	
3/4"	17.88	
1"	22.00	
1 1/2"	41.25	
2"	61.88	
3"	112.76	\$ 130.63
4"	184.26	221.39
6"	364.40	452.41
8"	578.92	569.29
10"	829.19	1,045.08
12"	1,281.59	1,545.61

When two or more meters are installed or parallel the customer charges will be based on one meter size larger.

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CONSUMERS INDIANA WATER COMPANY D/B/A
AQUA INDIANA, INC.
LAKE COUNTY, INDIANA

I.U.R.C. No. W-1
Second Revised Sheet No. 4
Canceling First Revised Sheet No. 4

WATER SERVICE

2. USAGE CHARGES

The following shall be the rates for water usage and are in addition to the customer charge and public fire protection charge.

<u>Monthly Usage – Gallons</u>	<u>Rates per 1,000 Gallons</u>
First 10,000	\$5.20
Over 10,000	\$2.28

Multiply units – When multiple units are served by one meter, the above usage rates shall be applied on a "per unit" basis.

3. PUBLIC FIRE PROTECTION CHARGES

Application to all metered water service customers (except for Sales for Resale) located in a municipality, township, or fire protection district in which public fire hydrants are connected to Company's water mains.

Monthly Charge

All metered water service customers (except Sales for Resale) located in a municipality, township, or fire protection district in which public fire hydrants are connected to Company's water mains shall pay a Public Fire Protection Service Charge in the amount as set forth below, such charge being in addition to the rates and charges set forth elsewhere in this tariff for regular water service.

<u>Location</u>	<u>5/8"</u>	<u>3/4"</u>	<u>1"</u>	<u>1 1/2" & Larger</u>
Lake County	0.81	1.21	2.02	4.03

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CONSUMERS INDIANA WATER COMPANY D/B/A
AQUA INDIANA, INC.
LAKE COUNTY, INDIANA

I.U.R.C. No. W-1
First Revised Sheet No. 5

WATER SERVICE

4. BILLING TERMS

Billings will be made on the basis of the above rates and are due and payable at the stated rates on or before the twenty-first (21st) day following the date of the postmark of the bill, or if said twenty-first (21st) day falls on a Saturday, Sunday, or legal holiday, then on the first day thereafter not a Saturday, Sunday, or legal holiday; all bills unpaid after said twenty-first (21st) day shall be increased by ten percent (10%) of the first \$3.00 and three percent (3%) of the unpaid bill in excess of \$3.00.

5. RULES REGULATIONS AND CONDITIONS OF SERVICE

Reference is hereby made to the Rules, Regulations and Conditions of Service of the Company, separately filed herewith as I.U.R.C. No. W-2. The Schedule of Rates for Water Service and other charges should be read together with and is hereby subject to said Rules, Regulations and Conditions of Service.

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CONSUMERS INDIANA WATER COMPANY D/B/A
AQUA INDIANA, INC.
LAKE COUNTY, INDIANA

I.U.R.C. No. W-1
First Revised Sheet No. 6

WATER SERVICE

6. WATER PLANT FUND

All applications for new water service connections shall be accompanied by a contribution as follows:

Domestic:

Single Family Residence	\$200.00
Apartment - 3 Bedroom.....	\$200.00
Apartment - 2 Bedroom.....	\$150.00
Apartment - 1 Bedroom.....	\$100.00
Apartment - Efficiency.....	\$50.00
Mobile Home.....	\$120.00

Commercial and Industrial:

Each 100 gals. per day average usage.....	\$50.00
---	---------

In the case of commercial and industrial customers, the initial determination of the amount of contribution will be made by the Company based on information supplied by the prospective customer relating to quantities of water to be used. If, during the period of water service to such customers, the quantity of water actually used by such customer is found to be substantially (more than 10%) different from originally estimated, the contribution required herein will be recomputed based on actual usage and the difference between the original contribution and the recomputed contribution will be paid by the customer if the recomputed contribution is higher or refunded by the Company if the recomputed contribution is lower.

All contributions received by the Company in accordance with this Rule will be identified as such on the books of the Company and will be used only for the purpose of providing additional source of supply, pumping, purification, storage or water transmission facilities. Any such facilities provided will at all times be the property of the Company.

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CONSUMERS INDIANA WATER COMPANY D/B/A
AQUA INDIANA, INC.
LAKE COUNTY, INDIANA

I.U.R.C. No. W-1
First Revised Sheet No. 7

WATER SERVICE

MISCELLANEOUS CHARGES

Miscellaneous charges shall be as stated in the Rules, Regulations and Conditions of Service on file with the Commission or as set forth below:

The reconnection fee charged by the Company shall be \$25.00.

The charge for the testing of meters one inch (1") and smaller shall be \$7.50, and the charge for the testing one and one-quarter (1¼") and two inch (2") meters will be \$15.00.

The minimum charge for water provided for building and construction purposes shall be \$5.00, payable in advance.

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