

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF)
EAST SHORE CORP. FOR THE SALE AND)
TRANSFER OF ITS FRANCHISE, WORKS OR)
SYSTEM AND FOR THE SURRENDER OF ITS) CAUSE NO. 45484
CERTIFICATES OF TERRITORIAL)
AUTHORITY TO RENDER SEWAGE)
DISPOSAL SERVICE IN RURAL AREAS OF)
MARSHALL COUNTY, INDIANA)

PUBLIC'S EXHIBIT NO. 1

TESTIMONY
OF
KRISTEN WILLOUGHBY
ON BEHALF OF
THE INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

February 23, 2021

Respectfully submitted,



Daniel M. Le Vay, Attorney No. 22184-49
Deputy Consumer Counselor
115 W. Washington St., Suite 1500 South
Indianapolis, IN 45204

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing *Public's Exhibit No. 1, Testimony of Kristen Willoughby on behalf of the Indiana Office of Utility Consumer Counselor* has been served upon the following counsel of record in the captioned proceeding by electronic service on February 23, 2021.

David T. McGimpsey
**DENTONS BINGHAM
GREENEBAUM LLP**
212 W. 6th Street
Jasper, Indiana 47546
E-mail: david.mcgimpsey@dentons.com



Daniel M. Le Vay
Deputy Consumer Counselor

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR
115 West Washington Street
Suite 1500 South
Indianapolis, IN 46204
infomgt@oucc.in.gov
317/232-2494 – Phone
317/232-5923 – Facsimile

TESTIMONY OF OUCC WITNESS KRISTEN WILLOUGHBY
CAUSE NO. 45484
EAST SHORE CORP.

I. INTRODUCTION

1 **Q: Please state your name and business address.**

2 A: My name is Kristen Willoughby, and my business address is 115 West Washington
3 Street, Suite 1500 South, Indianapolis, Indiana 46204.

4 **Q: By whom are you employed and in what capacity?**

5 A: I am employed by the Indiana Office of Utility Consumer Counselor ("OUCC") as
6 a Utility Analyst in the Water/Wastewater Division. My qualifications and
7 experience are set forth in Appendix A.

8 **Q: What relief has Petitioner requested?**

9 A: East Shore Corp. ("East Shore" or "Petitioner") seeks authority to transfer its
10 franchise, works or system to East Shore Conservancy District ("East Shore
11 Conservancy") and surrender its certificates of territorial authority ("CTAs").

12 **Q: What is the purpose of your testimony?**

13 A: I discuss East Shore's basic characteristics and provide a brief history of the utility.
14 I recommend approval of the transfer of its franchise, works or system from East
15 Shore to East Shore Conservancy and the surrender of the East Shore CTAs.

16 **Q: What did you do to prepare your testimony?**

17 A: I reviewed East Shore's case-in-chief filed on January 22, 2020, which include the
18 testimonies of William Steck, member of the Board of Directors and President of
19 East Shore Corp. and James Bremner, member of the Board of Directors and the
20 Treasurer and Financial Clerk of East Shore Conservancy District. I reviewed the
21 Indiana Utility Regulatory Commission's ("Commission" or "IURC") final orders

1 in Cause Nos. 41494 and 42667 in which Petitioner was granted its original CTA
2 and expanded CTA, respectively.

II. EAST SHORE CHARACTERISTICS AND ASSETS

3 **Q: Please describe East Shore's characteristics.**

4 A: East Shore is a not-for-profit corporation which owns and operates a wastewater
5 utility in Marshal County. The East Shore System has 108 members, 102 of which
6 currently receive sewer service. (Six members joined the utility when it was formed
7 but have not yet connected.) The wastewater system began operating in 2001 using
8 a wetlands drip field system and has approximately 13,760 feet of force main. Each
9 home has a grinder pump and lateral owned by the property holder which connects
10 to the system. The wetlands drip field takes up 10 acres on a 12-acre parcel
11 Petitioner owns. The homes served by the system are on wells with high iron
12 content. Over time, the high iron content of the water has proven to be an issue for
13 the wetlands drip field system as it clogs the emitters.¹

14 **Q: Has Petitioner had any compliance issues?**

15 A: Yes. On August 1st 2019, East Shore received a cease-and-desist letter from the
16 Marshal County Department of Health. This letter stated the "system is deemed in
17 failure in accordance with 410 IAC 6-10.1-9(3) effluent is discharged from the
18 system contaminating surface waters."²

19 **Q: Did Petitioner address the compliance issue?**

20 A: Yes. East Shore first explored the option of fixing the wetlands drip field system
21 but learned that option required more land than what East Shore possessed. The

¹ Petition and Mr. Steck, p. 2-3.

² Mr. Steck Attachment WFS-1.

1 additional land it needed was not available. Therefore, East Shore constructed a
2 force main to the Town of Culver, which was completed and placed into service on
3 July 16, 2020.³ On September 3, 2020, the Marshal County Department of Health
4 sent East Shore a letter acknowledging that East Shore had properly abandoned the
5 old wetland drip field.⁴

III. PROPOSED TRANSFER

6 **Q: Why is East Shore transferring the utility to the East Shore Conservancy**
7 **District?**

8 A: East Shore's long-term goal was to get out of the wastewater treatment business
9 and to have all property owners along the east shore of Lake Maxinkuckee connect
10 to the sewer. Petitioner believes this sale will ultimately achieve these two goals.
11 The freeholders along the east shore of Lake Maxinkuckee who are not connected
12 to the sewer are located in the East Shore Conservancy's area.⁵ Additionally, East
13 Shore believes East Shore Conservancy is "in a better position to provide sewer
14 service because it has access to credit and advantageous financing that East Shore
15 does not have and has the ability to spread its operational costs over a greater
16 number of customers and achieve a greater overall positive environmental
17 impact."⁶

18 **Q: Please describe East Shore Conservancy's characteristics.**

19 A: The East Shore Conservancy District was formed on June 15, 2020. The East Shore
20 Conservancy will serve 130 freeholders, including all 108 members of East Shore.

³ Mr. Steck, p. 3, l. 6.

⁴ Mr. Steck Attachment WFS-4.

⁵ Note these freeholders were also located within East Shore's CTA.

⁶ Mr. Steck, p. 5, l. 8-11.

1 Some of the board members of East Shore serve on the board of the East Shore
2 Conservancy District.⁷ This continuity will preserve institutional knowledge.

3 **Q: What assets are the East Shore Conservancy District acquiring?**

4 A: The East Shore Conservancy is acquiring all of East Shore's assets comprising 12
5 acres of land where the old wetland drip field is located and all force mains
6 including the recently constructed force main to the Town of Culver.

7 **Q: What is the purchase price for the East Shore assets?**

8 A: The purchase price will be the "outstanding debt plus the current liabilities less cash
9 on hand, not including normal and customary monthly operational expenses."⁸ All
10 assets that do not have outstanding debt associated with them are being sold at \$0
11 to keep rates low and prevent current members from paying for the assets twice in
12 rates. The Option to Purchase lists the agreed upon price as not more than
13 \$1,875,000.⁹

14 **Q: Will East Shore Conservancy charge the same rates as East Shore?**

15 A: No. East Shore Conservancy will change the rate structure from \$100 per month to
16 a fee ranging from \$85 - \$120 per month depending on the number of bathrooms in
17 the home.

18 **Q: Do you believe the transfer of East Shore's franchise, works or system to East**
19 **Shore Conservancy is in the public interest?**

20 A: Yes. East Shore Conservancy is primarily made up of existing East Shore members
21 and its board shares some of the same members as East Shore. The primary
22 difference between the two entities is the corporate structure. This change in

⁷ Mr. Steck, p. 8, l. 10.

⁸ Mr. Steck, p. 6, l. 22-23.

⁹ Mr. Steck Attachment WFS-5.

1 corporate structure will potentially allow East Shore Conservancy to finance the
2 debts East Shore currently holds at a lower interest rate through the Indiana Finance
3 Authority.

4 **Q: Do you have any concerns about the proposed transfer?**

5 A: No. I am not aware of any reason the transfer should not be approved.

IV. OUCC RECOMMENDATIONS

6 **Q: What are your recommendations?**

7 A: I recommend that the Commission approve Petitioners' request for approval of the
8 transfer and sale of East Shore's franchise, works or system to East Shore
9 Conservancy and the surrender of East Shore's certificates of territorial authority.

10 **Q: Does this conclude your testimony?**

11 A: Yes.

APPENDIX A

Q: Please describe your educational background and experience.

A: I graduated from Indiana University with a Bachelor of Science degree in Biology and a Master of Public Affairs ("MPA") concentrating in Environmental Management. My graduate coursework included studying how water pollution affects aquatic ecosystems, environmental rules and regulations, toxicology, risk analysis, epidemiology, finance and budgeting, economics, statistics, public management, and other courses on how pollution affects human health and the environment. After graduating with my MPA, I was hired as an Environmental Manager (EM2) by the Indiana Department of Environmental Management, Office of Air Quality, Permits Branch in 2006 where I analyzed projects for a variety of industries, calculated the air emissions associated with those projects, determined applicable state and federal rules, and drafted federally enforceable air permits. I was promoted to a Senior Environmental Manager (SEM1) about one year later. I held this position for more than ten years. As an SEM1, I worked on complex permit projects, trained and mentored staff, reviewed staff's work, and developed templates, guidance, and training materials. Since joining the OUCC, I have attended numerous utility related seminars and workshops including the National Association of Regulatory Utility Commissioners ("NARUC") Western Utility Rate School.