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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE TOWN OF LIZTON,)
INDIANA, FOR AUTHORITY TO ISSUE BONDS,) CAUSE NO. 45274
NOTES, OR OTHER OBLIGATIONS, AND FOR)
APPROVAL OF INITIAL SCHEDULES OF) APPROVED: NOV 27 2019
WATER RATES AND CHARGES.)

ORDER OF THE COMMISSION

Presiding Officers:
David L. Ober, Commissioner
Jennifer L. Schuster, Administrative Law Judge

On August 5, 2019, the Town of Lizton, Indiana (“Lizton” or “Petitioner”) filed its Petition with the Indiana Utility Regulatory Commission (“Commission”) seeking authority to issue bonds, notes, or other evidence of indebtedness and approval of its proposed initial rates and charges for water service. Petitioner also filed its case-in-chief on August 5, 2019. On September 17, 2019, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed its case-in-chief, and Lizton filed rebuttal testimony on September 24, 2019.

The Commission held an evidentiary hearing in this Cause on October 18, 2019 at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the OUCC were present and participated, and the testimony and exhibits of Petitioner and the OUCC were admitted into the record without objection.

Based upon the evidence, the Commission now finds:

1. Notice and Jurisdiction. Due, legal, and timely notice of the hearing conducted in this Cause was given as required by law. Petitioner is a municipality that proposes to own and operate a municipal water works distribution system and related facilities in order to provide water sales and service to customers in and near the Town of Lizton, Indiana. Under Ind. Code §§ 8-1-2-42, 8-1-2-42.7, and 8-1.5-3-8(f)(2), the Commission has jurisdiction to approve Lizton’s water utility rates and charges. Further, the Commission has jurisdiction under Ind. Code § 8-1.5-2-19 to approve issuances of long-term debt. Therefore, the Commission has jurisdiction over Lizton and the subject matter of this proceeding.

2. Relief Requested. In its Petition, Lizton has requested authority to issue bonds, notes, or other evidence of indebtedness and approval of its initial rates and charges for water service. Lizton proposes to construct, own, and operate a water distribution system and to purchase water on a sale-for-resale basis from the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis, as Trustee of a Public Charitable Trust for the Water System, d/b/a Citizens Water (“Citizens Water”).

3. The Parties' Evidence.

A. Lizton's Case-in-Chief. Otto Krohn, Petitioner's financial advisor, discussed why Lizton did not seek to obtain direct service from Citizens Water. According to Mr. Krohn, if Citizens Water were to serve Lizton directly, Lizton residents would have to independently finance the cost of construction that Lizton plans to finance with the grant and forgivable loan funding sought in this case.

Mr. Krohn explained that, in order to connect directly to Citizens Water, Lizton citizens would have to contribute between \$10,000 and \$15,000 per connection in order to participate, plus additional onsite costs. He testified that Citizens Water agrees that the arrangement Lizton is proposing in this Cause is appropriate under the circumstances. Mr. Krohn also stated that the inability to obtain municipal water service has stifled Lizton's desire and plans for economic development and has left its residents without municipal-grade water.

Mr. Krohn provided preliminary cost estimates for Lizton's water utility project in Attachment OWK-1 to his testimony. He testified that the total estimated cost of the project is \$4.1 million. Lizton proposes to finance the cost of the project through (1) a contribution of \$2 million from the Indiana Department of Transportation ("INDOT") so that Lizton can serve an INDOT rest stop and garage located on Interstate 74; (2) a \$700,000 grant from the Indiana Office of Community and Rural Affairs ("OCRA"); and (3) a \$1.4 million forgivable loan from the Indiana Finance Authority's ("IFA") State Revolving Fund ("SRF"). Mr. Krohn opined that the proposed financial plan is the most efficient way to fund Lizton's proposal, as the majority of funding will be provided through grants and a forgivable loan.

Mr. Krohn testified that Lizton is seeking financing authority in this Cause up to \$1.8 million, including the \$1.4 million forgivable SRF loan. According to Mr. Krohn, Lizton has requested additional financing authority to allow it flexibility in the event that a portion of the SRF loan is not forgivable or construction costs are higher than anticipated. Mr. Krohn testified that, as a result of its largely forgivable funding mix, Lizton's residents will only be required to pay a \$250 connection fee, in addition to the cost of connecting their plumbing.

Mr. Krohn also testified about Petitioner's proposed initial rates and charges, which were set forth in Table 1 in his testimony. Assuming an average residential usage of 4,000 gallons per month, Lizton's proposed rates would result in an average residential bill of about \$56 per month. Mr. Krohn opined that \$56 per month is a fair and competitive rate when compared with other water utilities in the area. He testified that there are 179 equivalent dwelling units ("EDUs") that have committed to connect and that potential customers are anticipating a monthly rate in the approximate range of \$50 to \$70 per month. According to Mr. Krohn, pent-up demand for new commercial and residential housing projects exists in Lizton due to its proximity to Interstate 74, and municipal-grade water utility service would facilitate further development in Lizton. He opined that adding one hypothetical new development with 70 EDUs would reduce the average monthly rate to less than \$42.

Mr. Krohn testified that, other than the \$2 million contribution from INDOT, none of the grants and forgivable loans that Lizton has received are transferrable to another entity such as

Citizens Water. At this point, if Citizens Water were to serve Lizton citizens directly, Mr. Krohn estimated that each residential customer would be required to pay \$11,725 to connect under Citizens Water's main extension rules.

James W. Frazell, P.E., Senior Project Engineer with Triad Associates, Inc., testified regarding the Indiana Department of Environmental Management's ("IDEM") review and certification of Lizton's Water System Management Plan ("WSMP"). Mr. Frazell explained that the WSMP is required by IDEM to show that a community proposing to establish a new water system has the necessary technical, managerial, and financial capacity to do so. According to Mr. Frazell, as part of the WSMP submission, Lizton was required to show that it considered alternatives to developing a new system. Mr. Frazell testified that Lizton considered potential consolidation with all water systems within a ten-mile radius, but the only system within reasonable proximity to Lizton that could provide the needed volume and extend service to Lizton was found to be Citizens Water. Like Mr. Krohn, Mr. Frazell opined that having Citizens Water serve Lizton directly is not financially feasible, and interconnecting with Citizens Water to purchase water at wholesale is the most cost-effective option for Lizton residents. Mr. Frazell testified that IDEM reviewed the Petitioner's WSMP and notified it by letter on June 14, 2019 that the proposed Lizton water utility meets the necessary technical, managerial, and financial requirements for a new public water supply system.

Robert Uhrick, Lizton's Town Council President, testified that Lizton has sought to provide municipal water service to its residents for many years, but, until this point, all options have been cost prohibitive. Therefore, Lizton sought to finance this project with grants, contributions, and, if necessary, loans. Mr. Uhrick testified that it is not possible for the grants Lizton has received to be assigned to Citizens Water such that Citizens Water could build a water system in Lizton at a reduced cost.

B. OUCC's Case-in-Chief. Margaret Stull, Chief Technical Advisor in the OUCC's Water/Wastewater Division, recommended that (1) the Commission limit Petitioner's borrowing authority to \$1.4 million; (2) the Commission order Petitioner to use proprietary fund accounting as well as the National Association of Regulatory Utility Commissioners ("NARUC") Uniform System of Accounts ("USoA"); (3) the Commission direct Petitioner to set its connection charge at \$1,792; and (4) Petitioner provide at least 17 days for customers to pay their bills before incurring a late payment fee, rather than ten days as proposed by Petitioner.

Ms. Stull expressed concerns regarding Petitioner's estimated operating revenues, including the revenues assumed for master-metered customers and the number of customers who will actually connect to the system once it is constructed. Ms. Stull also testified that she was concerned about the adequacy of Petitioner's estimated operating expenses, the limited funds available to address contingencies, and proposed connection fee. She opined that the proposed connection fee was understated based on the bids Lizton received from contractors and recommended that the connection fee be set at \$1,792 rather than the \$1,100 proposed by Petitioner.

Kristen Willoughby, Utility Analyst II in the Water/Wastewater Division of the OUCC, recommended that Lizton revise its backflow prevention policy to clarify that the policy applies to

all customers, not just residential customers. Ms. Willoughby also recommended that Lizton adopt three sections of the American Water Works Association (“AWWA”) Standard G200 on system flushing, valve exercising, and maintenance and testing of fire hydrants. Ms. Willoughby testified about the importance of the number of connections, because receiving sufficient revenue from customers is necessary to successfully operate and maintain a utility. She testified that IDEM’s Certification of Demonstration of Capacity for a New Public Water Supply identified Lizton’s financial capacity as a concern and stressed the importance of Lizton receiving the full \$2 million contribution from INDOT and the necessity of potential customers who signed commitments actually connecting as water service becomes available.

James Parks, Utility Analyst II in the Water/Wastewater Division of the OUCC, recommended that (1) the Commission authorize only \$1.4 million of the \$1.8 million in requested borrowing to match the proposed rates and to reflect the actual low-bid result; (2) the Commission direct Lizton to increase its connection charge to reflect actual costs established by the successful bid; (3) Lizton clarify the pressure requirements in its INDOT contract so that changes, if any, to the system design can occur before construction begins; (4) the points of delivery be identified in the INDOT contract; (5) Lizton confirm that INDOT will make the full \$2 million payment; (6) Lizton and Citizens Water clearly define the boundaries of their respective service areas to avoid any future conflict; and (7) Lizton address stagnant water issues by collaborating with IDEM and Citizens Water to develop a monitoring and control program to minimize the necessary volume of wasting of purchased water.

Mr. Parks testified that, based on Lizton’s bid results, Lizton’s proposed \$1,100 connection charge will be insufficient to recover its actual costs. Like Ms. Stull, he recommended Lizton increase its connection charge to \$1,792 to align with the actual cost to make a residential service connection.

He also testified that Lizton will not be able to meet INDOT’s contractual minimum pressure requirement (55 psi) if Citizens Water supplies water at the lower end of the contracted pressure range (also 55 psi). He added that Petitioner’s pressure calculations assume a lower peak flow and appear to include only line losses through straight pipe and not pressure losses through the fittings and numerous valves.

Mr. Parks also explained that, while Petitioner testified that INDOT is contributing \$2 million of the proposed \$4.1 million estimated project cost, the INDOT contract states that “[t]he amount of INDOT’s contribution for Project costs shall not exceed \$2,000,000.00.” He testified that Table II in the WSMP (Attachment JF-1) indicates that INDOT’s cost is only \$673,000, plus contingencies and non-construction costs. Based on this language, Mr. Parks recommended that Lizton provide confirmation that INDOT will make the full \$2 million payment.

Because portions of Lizton’s proposed service area overlap with the service area of Citizens Water, Mr. Parks recommended that Lizton and Citizens Water clearly define their service area boundaries to avoid any conflict and to inform prospective future water customers which water utility to contact for service.

Finally, Mr. Parks testified that Citizens Water's storage tank has a stagnant water issue which could lead to low chlorine residuals and increased disinfection byproducts. He noted that Mr. Frazell testified that Citizens Water routinely wastes water from the 1 million gallon ("MG") water tower that is located near Lizton in order to prevent stagnant water issues. Mr. Parks opined that Lizton will be adversely affected when it connects to Citizens Water's main and becomes the end of the line. He testified that storage in Lizton's mains will further increase water age and added that Lizton will have to monitor chlorine residuals and will likely have to waste purchased water from its system. To address these issues, Mr. Parks recommended that Lizton collaborate with both IDEM and Citizens Water to develop a monitoring and control program to minimize the wasting of purchased water.

C. Lizton's Rebuttal Case. Mr. Krohn testified that Lizton agrees with all but two of the OUCC's recommendations. Mr. Krohn specifically addressed Ms. Stull's and Mr. Parks's recommendation that Petitioner's borrowing authority should be limited to \$1.4 million based on the bids received. Mr. Krohn testified that, even if Petitioner does not receive the full \$2 million from INDOT and must borrow \$350,000 in non-forgivable debt, the average residential customer's monthly bill would only increase to \$66.75 which is still within the range of \$50 to \$70 per month that Lizton residents are expecting.

Mr. Krohn testified that Lizton agrees with the OUCC's recommendation to increase its connection charge to \$1,792 to reflect actual costs (along with an \$8 administrative fee, bringing the total to \$1,800), as well as to revise its tariff to reflect a 17-day late payment grace period before penalties are assessed. He stated that Petitioner agrees with the OUCC and will employ the NARUC USoA through the use of a proprietary fund accounting and financial reporting system.

Mr. Frazell testified regarding the INDOT contract, stating that the \$673,000 listed in Table II in the WSMP (Attachment JF-1) does not include the cost of the interconnection main to reach Citizens Water. However, the cost of the interconnection main is included in the project costs identified in the INDOT contract. Mr. Frazell opined that Petitioner believes that the INDOT contract is "ambiguous" regarding whether INDOT is obligated to pay Petitioner the full \$2 million under all circumstances. He testified that he believes that INDOT is required to contribute \$2 million under the terms of the INDOT contract. However, he stated that INDOT's contribution could ultimately be less than \$2 million if disputes arise between INDOT and Lizton with respect to project invoices in the future. Therefore, Mr. Frazell testified that Lizton is requesting the full \$1.8 million in borrowing authority in order to provide it with flexibility in case any disputes regarding project invoices arise.

Mr. Frazell testified that Lizton does not agree with the OUCC's recommendation that Lizton and Citizens Water need to clearly define their respective service areas because Petitioner generally does not intend to provide water service outside its corporate limits¹ and, by law, Citizens Water is not permitted to serve within Lizton's corporate limits. Mr. Frazell noted that if there becomes a need to define the service areas of Lizton and Citizens Water in the future, this can be accomplished in a future proceeding. He also testified that Lizton does not agree with the OUCC's

¹ The only exceptions to this are the INDOT facilities and one committed customer adjacent to the lines that will be used to serve INDOT's rest area and garage.

recommendation that Lizton collaborate with IDEM and Citizens Water to develop a monitoring and control program to address stagnant water issues. He testified that Citizens Water is responsible under its service agreement with Lizton for delivering a disinfection residual at Lizton's point of connection with Citizens Water. Therefore, contractually, any stagnant water issues and any resulting low chlorine residuals should be addressed before the water reaches Lizton's distribution system.

4. Commission Discussion and Findings.

A. Initial Matters. Petitioner's desire to provide its citizens with municipal water service and thereby promote local economic development is certainly understandable. However, with fewer than 200 customers, we feel that it is important to stress at the outset of our analysis that Petitioner will be creating a new municipal water utility that will be one of the smallest water utilities in the state of Indiana. Lizton will be essentially creating a "distressed utility" (now referred to as an "offered utility" if such a utility is offered for sale) because its water system will be too small to capture economies of scale and will serve less than 5,000 customers. *See* Ind. Code § 8-1-30.3-6(5), (6).

Current state policy, as recognized by the General Assembly, is to promote regionalization of utility service in order to maximize efficiency and economies of scale and protect affordability of utility services. *See, e.g.,* Ind. Code § 8-1-2-0.5. The relief sought by Lizton in this Cause is in contravention to this stated policy. Providing water service is extremely capital intensive, and the risk in Lizton's investment is so great that it may result in customer rates that far exceed those it has proposed, ultimately hampering economic development.

Petitioner's witnesses have insisted that its proposal in this Cause is the only way it could feasibly obtain water service for its residents, having been unsuccessful in past attempts to do so over a number of years. While we are sympathetic to Lizton's plight, we do not agree that starting a municipal utility was Petitioner's best or only option. Citizens Water has a water tower near Lizton and, practically speaking, could have served Lizton directly with much lower risk. While it is true that the funding Lizton has now obtained for this project is, for the most part, not transferrable to other entities at the current time, there was nothing preventing Lizton from seeking grant money, for example, to help cover the costs it would have incurred under Citizens Water's main extension rules so that Citizens Water could serve Lizton residents directly. However, Lizton chose to pursue the creation of a municipal utility, and that decision cannot be altered now.

Further, we strongly recommend that Lizton consider taking advantage of the Commission's small utility ("Small U") filing procedures in the future, which allow utilities serving less than 8,000 customers to raise rates through a simplified regulatory process, often without the need for a hearing. If used as intended, the Small U rate application procedure allows an eligible utility to use standard forms that can be completed without an attorney or accountant, thus avoiding certain expenses. In addition, if utility personnel have questions during the Small U filing process, they can contact the Commission directly with questions, unlike in a standard rate

case where *ex parte* communications with the Commission and its staff are prohibited. We believe that the Small U procedure would be greatly beneficial to Lizton and its residents.²

B. Lizton's Initial Rates and Charges. A certificate of public convenience and necessity is not required for Lizton to start a new municipal water utility. Ind. Code § 8-1.5-2-7(a). With our jurisdiction thus limited by statute, our task in this matter is limited to setting nondiscriminatory, reasonable, and just rates for Lizton's municipal water service, Ind. Code § 8-1.5-3-8, and determining whether to approve the issuance of long-term debt under Ind. Code § 8-1.5-2-19.

Under Ind. Code § 8-1.5-3-8, "reasonable and just rates and charges for services" means rates and charges that produce sufficient revenue to do the following:

- (1) pay all the legal and other necessary expenses incident to the operation of the utility, including:
 - (A) maintenance costs;
 - (B) operating charges;
 - (C) upkeep;
 - (D) repairs;
 - (E) depreciation;
 - (F) interest charges on bonds or other obligations, including leases; and
 - (G) costs associated with the acquisition of utility property under IC 8-1.5-2;
- (2) provide a sinking fund for the liquidation of bonds or other obligations, including leases;
- (3) provide a debt service reserve for bonds or other obligations, including leases, in an amount established by the municipality, not to exceed the maximum annual debt service on the bonds or obligations or the maximum annual lease rentals;
- (4) provide adequate money for working capital;
- (5) provide adequate money for making extensions and replacements to the extent not provided for through depreciation in subdivision (1); and
- (6) provide money for the payment of any taxes that may be assessed against the utility.

Ind. Code § 8-1.5-3-8(d) includes a critical caveat (emphasis added):

It is the intent of this section that the rates and charges produce an income sufficient to maintain the utility property in a sound physical and financial condition to render adequate and efficient service. *Rates and charges too low to meet these requirements are unlawful.*

Our analysis of what constitutes "reasonable and just rates and charges" for Lizton's proposed water service is contained in the following sections.

² Additional information about the Small U filing process is available on the Commission's web site at [https://www.in.gov/iurc/files/Brochure\(1\).pdf](https://www.in.gov/iurc/files/Brochure(1).pdf).

i. **Number of Initial Connections.** Mr. Frazell testified that Lizton’s proposed service area includes 207 potential users or 253 EDUs. Lizton based its testimony, revenue requirements, and rates on the assumption that 179 EDUs will connect at the start of utility operations. Mr. Krohn testified that Petitioner “has already received paid commitments from approximately 165 individual customers representing more than 200 EDUs.” However, OUCC witness Ms. Willoughby testified that, once duplicate sign-ups were eliminated, 145 signed commitment forms have been received by Petitioner, and one such form was for a 25-unit apartment complex. Adding 15 EDUs for the INDOT facilities yields a total of 184 EDUs committed for service (Attachment MAS-1). Lizton has thus predicted an initial connection rate of approximately 97% (179 EDUs out of 184 “committed” EDUs).

Ms. Willoughby expressed concern that Lizton could have fewer than 179 EDUs initially taking service. IDEM stated this same concern in its June 14, 2019 Certification of Demonstration of Capacity (Attachment JF-2). Mr. Parks testified that, due to the project schedule, he anticipates that many customers may not connect to the water utility until 2021.

Petitioner did not change its prediction of 179 EDUs initially connecting on rebuttal. Mr. Krohn testified that he anticipated 168 residential meters, a 2-inch meter for the 25-unit apartment complex, another 2-inch meter for the INDOT garage, and a 4-inch compound meter at the INDOT rest area, as initial connections, making Lizton’s revenue projection reasonable.

The Commission has encountered other small utilities in the past that significantly overestimated their number of initial connections. Morgan County Rural Water (“MCRW”) and Sullivan-Vigo Rural Water (“SVRW”) are two examples of such utilities.³

In Cause No. 41818, the evidence of record indicated that MCRW had 733 customers who had signed up for initial connections. However, the Commission learned in Cause No. 42481 that, of these 733 commitments, only 272 customers actually connected. Thus, only approximately 37% (272 divided by 733 = 37.1%) of the 733 potential customers identified as potential initial connections actually honored their commitment to connect.

Similarly, in Cause No. 42599, SVRW claimed that 804 out of a potential 1,492 customers had signed up to receive service. However, in Cause No. 44366, the evidence showed that approximately 150 of those 804 committed customers did not actually connect. Thus, only 81%

³ The Commission took administrative notice of the Orders in Cause Nos. 41818 and 42481 (MCRW) and Cause Nos. 42599 and 44366 (SVRW) via Docket Entry on October 17, 2019. Counsel for Petitioner responded to the Commission taking administrative notice of these orders at the evidentiary hearing on October 18, 2019, noting, among other things, that MCRW and SVRW are both still operating and financially viable. Counsel also pointed out that the circumstances in these cases were different than those present in this Cause, as neither MCRW nor SVRW is a municipal utility and both sought to finance their start-up utilities through loans from the United States Department of Agriculture’s (“USDA”) Rural Development (“RD”) program. Counsel also distinguished Lizton from the communities in those cases based on its proximity to Indianapolis, as opposed to the more rural areas served by MCRW and SVRW. Needless to say, the Commission is aware that MCRW and SVRW are not identical to Lizton’s proposed water utility and cited these matters as examples of cases in which inaccurately predicted initial connection rates for smaller start-up water utilities contributed to the utility’s decision to return to the Commission seeking to increase rates and/or refinance debt.

(654 divided by 804 = 81.3%) of 804 committed customers actually honored their commitment to connect, even with SVRW's requirement that potential customers sign a 12-month membership agreement requiring minimum monthly payments (\$40.72) once service was made available, regardless of whether the potential customer actually connected.

While the factual details of these cases differ in certain ways from this Cause, they illustrate the significant effect that inaccurate estimates of a utility's initial connection rate can have on a utility's revenue and thus its rates and charges. For both MCRW and SVRW, their inaccurately predicted initial connections contributed to their need to return to the Commission in order to increase rates and/or refinance debt. We believe the percentage of actual connections in the MCRW and SVRW provide useful information regarding what a realistic connection rate in this case may be.

Lizton's witnesses have predicted that approximately 97% of potential customers who have paid the \$250 connection fee will connect. Given the outcomes for the two small utilities noted above, we do not believe that is a realistic estimate, especially given that Lizton's sign-ups are not required to connect and, if they do connect, do not have any deadline for doing so. Thus, we believe the rates and charges established in this Order should be based upon an 80% initial connection rate for residential customers, which when added to the apartment complex and INDOT facilities yields a total of 155 EDUs (115 EDUs for residential connections, 25 EDUs for the apartment complex, and 15 EDUs for INDOT facilities). We also find that Petitioner's rates approved herein shall be subject to true up within 30 days of the completion of construction to reflect the actual customer count and the actual borrowed amount that ultimately must be repaid, as explained further below.

ii. **Financing Authority and Debt Service.** In its Petition, Lizton indicated that it is seeking Commission approval for authority to issue waterworks revenue bonds not to exceed \$1.8 million. This amount includes the portion that IFA has indicated will be forgivable (\$1.4 million). According to Mr. Krohn, Lizton is requesting \$1.8 million in financing authority to allow it flexibility if the SRF loan of \$1.4 million is not 100% forgivable or construction bids come in higher than anticipated. OUCC witnesses Ms. Stull and Mr. Parks recommended that Lizton's requested borrowing authority be limited to \$1.4 million based on the bids Petitioner has received, which were within its budget and thus required no additional funds. In rebuttal, Mr. Krohn reiterated that Lizton is requesting its original borrowing authority of \$1.8 million. He stated that Petitioner will only use the \$400,000 borrowing authority to the extent Lizton does not collect a \$2 million contribution from INDOT.

Under Ind. Code § 8-1.5-2-19(b), when a municipality such as Lizton issues debt, it must show that the rates and charges "will provide sufficient funds for the operation, maintenance, and depreciation of the utility, and to pay the principal and interest of the proposed bond issue, together with a surplus or margin of at least ten percent (10%) in excess[.]" Ind. Code § 8-1.5-2-19(b). Thus, we must calculate debt service coverage ("DSC"). If DSC is at least 1.10, the statute has been satisfied.

Petitioner does not anticipate needing additional financing and submitted evidence indicating that SRF will provide additional funding to Lizton, if needed, in its response to the Commission's October 11, 2019 Docket Entry. However, we agree with Petitioner that having

additional financing flexibility in the event that INDOT's contribution ends up being less than the full \$2 million is the best approach.

For these reasons, we find that Petitioner's request to issue debt in an amount not to exceed \$1.8 million is reasonable and should be approved. For debt service, the Commission used information contained in Attachment IURC Town 2-2, page 3 from Petitioner's response to the Commission's October 11, 2019 Docket Entry. Using a \$400,000 SRF revenue bond with a 20-year term yields debt service of \$23,874 (the average of bond year totals for 2022 through 2026), which has been included in the table of initial rates and charges below.⁴ Based on an estimated 80% initial connection rate and rates established by the Commission in this Order, the DSC value is 1.61 for a \$400,000 SRF loan.

iii. Debt Service Reserve. Having obtained an SRF loan, Lizton is required to contribute to a debt service reserve fund. We find that such debt service reserve must be included in the revenue requirement for initial rates and charges to satisfy Ind. Code § 8-1.5-3-8. Ind. Code § 8-1.5-3-8(c)(3) indicates that debt service reserve should not exceed the maximum annual debt service, and the maximum annual debt service for an SRF loan should be amortized over five years. As above, we have calculated Lizton's debt service reserve using information contained in Attachment IURC Town 2-2, page 3 from its response to the Commission's October 11, 2019 Docket Entry. Based on this amortization table, debt service reserve is \$5,102 (\$25,510 divided by 5).

iv. Extensions and Replacements. Table 3 of Mr. Krohn's testimony reflects \$9,500 for extensions and replacements ("E&R"). While the OUCC did not propose an adjustment to E&R, Mr. Parks explained that Petitioner's allowance for E&R is much smaller than the \$69,700 that Lizton could have requested in depreciation expense. In his rebuttal testimony, Mr. Krohn increased Petitioner's proposed E&R to \$11,000, but did not provide any explanation for the proposed increase. Because Lizton provided no explanation for the increase in its proposed E&R, we find Petitioner's initial proposed E&R of \$9,500 should be approved.

v. Operation and Maintenance Expense. Mr. Krohn estimated Petitioner's total operation and maintenance ("O&M") expense to be \$110,955, which includes an estimate of \$52,955 for purchased water. Although OUCC witness Ms. Stull raised concern that Petitioner has likely understated its O&M, no adjustments were proposed by Petitioner on rebuttal.

We note that Mr. Krohn based his purchased water expense of \$52,955 on purchasing 5,750 gallons (5,250 gallons per EDU plus 500 gallons for estimated line loss) for 179 EDUs multiplied by 12 months. However, Mr. Krohn based his projected operating revenues on each EDU using 4,000 gallons per month. Thus, we believe Petitioner has overstated its purchased water expense.

Using the water loss ratio of 8.7% provided in Mr. Krohn's direct testimony (Table 3, page 17), the minimum water allowance for the minimum monthly charge by meter size (Attachment

⁴ Should Petitioner actually need to borrow more than the \$400,000 SRF loan, it will need to seek Commission approval for any additional debt service.

OWK-4, page 9 of 10), and an 80% initial connection rate, we find Lizton’s purchased water expense should be estimated at approximately \$40,191 as shown below:

Proposed Initial Connections:	Number of EDUs	Meter Size	Minimum Bill	Avg. Use	Allowance for Water Loss - 8.7%	Total Monthly Purchases - 80%
Apartment - 25 Units	25	2-inch	\$ 302.50	40,000	3,478	43,478
INDOT	15	2 and 4-inch	\$ 1,265.00	200,000	17,391	217,391
Residential	115	5/8-inch	\$ 56.00	4,000	348	500,000
Total Annual Water Purchases						760,870
Divided By: 1,000 Gallons						1,000
						761
Citizens SFR Rate Blocks						
			Vol (1,000)	Block Rates		
		First	11.25	\$ 4.9304		\$ 55.47
		Next	138.75	\$ 4.7620		660.73
		Next	600.00	\$ 4.3353		2,601.18
		Next	3,000.00	\$ 2.9344		31.90
						Monthly Bill
						3,349.27
<i>Annualized Purchased Water Exp.</i>						\$ 40,191.24

Thus, based on our adjustment to the amount of purchased water expense, we have estimated Petitioner’s O&M expense to be \$98,191 (\$110,955 minus \$12,764).

Based on the foregoing, the Commission projects \$136,667 in total operating revenues to be necessary to cover Petitioner’s total revenue requirement, as shown below:

Revenue Requirements:	Amount
Operation and Maintenance Expenses	\$ 98,191
Debt Service	23,874
Debt Service Reserve	5,102
Replacements and Improvements	9,500
Total Annual Revenue Requirements	\$ 136,667

vi. **Percent Change to Proposed Rates.** To determine the percent change to Petitioner’s proposed rates, we need to identify the amount of revenue the proposed rates are designed to generate. This amount will be compared to the revenue requirement determined above to generate a percent change. In Petitioner’s case-in-chief, Petitioner used a revenue requirement of \$142,584. See Attachment OWK-4 at 8. It appears that Petitioner based this calculation on an average monthly bill of \$66.38, which is based on the issuance of \$350,000 SRF debt financing. Even though Petitioner referenced Attachment OWK-4 in its calculation of projected revenues, it appears that Table 3, Option 2 on page 17 of Mr. Krohn’s direct testimony is the information used to calculate the proposed \$56 per EDU minimum charge for a 5/8-inch metered customer. The revenue requirement for Option 2 totaled \$120,455 (\$110,955 O&M plus \$9,500 E&R), which results in an average monthly bill of \$56.08 (see Town of Lizton Workpaper

OWK 1R_092419, row 36). Given that Mr. Krohn rounded Petitioner’s proposed minimum bill amount down to \$56 for its 179 EDUs, we have calculated projected operating revenues of \$120,288.

Ms. Stull testified that the OUCC was concerned about Lizton’s overstatement of the revenue that will be received from the apartment complex and INDOT. These customers will be master-metered using a 2-inch meter for the apartment complex, a 4-inch meter for the INDOT rest area, and a 2-inch meter for the INDOT garage. Lizton’s proposed revenues for the 40 EDUs associated with INDOT and the apartment complex were erroneously based on the \$56 per EDU rate proposed for a 5/8-inch meter minimum bill. Correcting for this error by using the minimum bill amount proposed for a 2-inch and 4-inch metered customer results in a downward adjustment of \$8,070 in projected annual revenues, as shown on Table 1 of Ms. Stull’s testimony.

In rebuttal, Mr. Krohn explained he did not consider oversized meters when including projected revenues in the WSMP. However, he testified that Petitioner “is comfortable that its revenue projections remain reasonable, overall.” He explained Petitioner believes that the minimum charges for INDOT’s two meters would produce equivalent revenues of nearly 23 EDUs. Mr. Krohn also opined that many residential customers will likely exceed the 4,000 gallon-per-month minimum threshold. According to Mr. Krohn, Lizton now anticipates that 168 residential meters will be installed (based on the construction bids received), along with a 2-inch meter for the 25-unit apartment complex, another 2-inch meter for the INDOT Garage, and a 4-inch compound meter at the INDOT rest area.

The Commission agrees with the OUCC that Lizton overstated its projected revenues by \$8,070. Based on an 80% initial connection rate and Petitioner’s proposed rates, only \$96,090 in annual operating revenue would result:

	Number of EDUs	Number of Connections	Meter Size	Average Bill	Monthly Revenue	Annual Revenue
Apt. Bldg - 25 Units	25	1	2-inch	\$ 302.50	\$ 303	\$ 3,630
INDOT	15	1	2 and 4-inch	1,265.00	1,265	15,180
Residential	115	115	5/8-inch	56.00	6,440	77,280
	<u>155</u>			Sub-Total		<u>\$ 96,090</u>

Thus, based on the revenue requirement the Commission found above, Lizton’s proposed initial rates should be increased across the board by 42.23%, or \$40,577, as depicted below:

Revenue Requirements:

	Amount
Operation and Maintenance Expenses	\$ 98,191
Debt Service	23,874
Debt Service Reserve	5,102
Extensions and Replacements	9,500
Total Annual Revenue Requirements	<u>136,667</u>
Less: Projected Revenues	96,090
Recommended Revenue Increase	<u>\$ 40,577</u>
Percentage Increase from Petitioner's proposed rates	<u>42.23%</u>

vii. Conclusion. Based on the evidence presented and the foregoing findings, the Commission finds that Lizton's total revenue requirement is \$136,667. Based on this calculation, the minimum bill for a residential customer using 4,000 gallons of water would be approximately \$79.65. Petitioner shall true up its rates to reflect the actual customer count and amount of debt that must be repaid within 30 days of the completion of construction. In addition, Petitioner shall file annual true-up reports on the anniversary of its initial true-up date to adjust rates downward as growth of the system occurs. These true-up reports shall continue until Petitioner's rates falls to \$70 per month for 4,000 gallons (within the range it initially proposed) or until the utility's next rate case, whichever comes first.

viii. Non-Recurring Fees and Charges. Lizton included the following non-recurring charges in its proposed schedule of rates and charges: a \$750 "system development charge" based on a requirement of the INDOT contract; a \$1,100 connection charge (5/8-inch meter); a \$25 service call/reconnection charge during business hours; \$50 after-hours service call charge; \$25 bad check charge; a late payment charge; and a \$90 customer deposit (Attachment OWK-4).

The OUCC accepted all of Petitioner's proposed non-recurring charges with the exception of Petitioner's proposed connection fee. OUCC witness Mr. Parks recommended that Petitioner increase its proposed connection charge to reflect the actual costs established by the successful bid. In his rebuttal testimony, Mr. Krohn accepted the OUCC's recommendation and added an \$8 administration fee to bring the proposed connection fee to \$1,800 for a 5/8-inch connection. The Commission concurs with the parties' agreement on all non-recurring charges and Petitioner's proposed \$1,800 as an appropriate amount for a 5/8-inch connection fee, with the exception of the \$90 customer deposit and \$750 system development charge.

Petitioner also requested that the Commission approve a customer deposit of \$90 on its proposed tariff. In response to the Commission's October 11, 2019 docket entry, Petitioner explained that the customer deposit was placed on the tariff for ease of administration and transparency, but that it did not object to removing it from the tariff. We find that the customer deposit is not a rate or charge that needs to be included on Petitioner's tariff, but, rather, a sum of money that is being collected for its own financial protection in the case of events such as customer damage to utility equipment or customer failure to pay bills. Petitioner does not need Commission approval to charge a customer deposit. Thus, we recommend the \$90 customer deposit on Petitioner's tariff be removed.

Petitioner also proposed a \$750 “system development charge” to cover the \$750 per EDU that it must pay to INDOT under §1.10 of the INDOT contract for any subsequent connections to Lizton’s water system after the initial connections. 170 IAC 1-6-2(14) defines a system development charge as a “[one-time] fee assessed to new customers of water or sewer utilities to help finance development of utility systems, mainly those dealing with facilities for production, treatment, or storage necessary to serve those new customers.” The term includes impact, availability, and capacity fees. We note that this \$750 charge is not a true system development charge under this definition, as it is a term of the INDOT contract. Nonetheless, this charge should be included on Lizton’s tariff as a “Reimbursement Fee to INDOT.” The tariff should also contain language (e.g., a footnote) explaining that the Reimbursement Fee to INDOT will not be levied on the initial 209 customers identified on Exhibit B of the INDOT contract and shall terminate the earlier of 15 years from the effective date of the INDOT contract or when reimbursements to INDOT reach \$777,711.

Finally, we note that several of the rates and charges listed in Appendix J of Attachment JF-1 (the Town of Lizton’s “Rules, Regulations, and Rate Charges, Chapter 2 – Water”) were not included on Petitioner’s proposed tariff in this Cause, including the following:

1. A private connection charge for an 8-inch connection;
2. A fire protection surcharge for customers outside of the town limits of Lizton who are within 1,000 feet of a Lizton fire hydrant;
3. A meter test fee;
4. A system development charge of \$1,200 per EDU to connect to Lizton water;⁵ and
5. A penalty of “not more than \$2,500” for violations of provisions in the Lizton Water Rules.

Petitioner did not request Commission approval of these rates or charges. Thus, these rates and charges shall not be placed on Lizton’s tariff and shall not be charged to customers.

C. Other Matters. Mr. Parks recommended that Lizton and Citizens Water clearly define their respective “service areas” to avoid any future conflict on this topic. On rebuttal, Mr. Frazell testified that, other than from one customer and INDOT, it did not intend to serve any customer outside of its municipal limits. He also testified that, if a need to define such boundaries arises in the future, Lizton and Citizens Water can address it at that time in a separate proceeding. The Commission believes that it is not necessary to define the “service areas” of Petitioner and Citizens Water. The areas identified by Mr. Parks are not technically “service areas,” since water utilities are not issued a Certificate of Territorial Authority (“CTA”) to serve certain areas. Thus, we find that this issue is moot.

Both parties provided testimony regarding whether Lizton will be able to meet the technical requirements of its contract with INDOT, including the pressure requirements established by that

⁵ It is unclear whether this proposed system development charge of \$1,200 incorporates the \$750 “system development charge” to be paid pursuant to the INDOT contract or is completely separate.

contract. To the extent that pressure issues exist, the Commission is concerned that Lizton’s customers may ultimately be obligated to fund construction of booster pumping should Lizton not be able to meet its contractual obligation to INDOT. Thus, we recommend that Lizton work with INDOT to clarify pressure requirements so that changes, if any, to the system design can occur before construction begins, as recommended by Mr. Parks. This will help Lizton better anticipate any additional expenditures that may be needed to fix pressure issues.

The Commission also recommends that Lizton collaborate with Citizens Water to develop a monitoring and control program to minimize the wasting of water and therefore minimize the expense of wasted water that will be passed on to Lizton’s customers.

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

1. Petitioner’s request to issue long-term debt in a principal amount not to exceed \$1.8 million to IFA in order to construct, own, and operate a water distribution system as proposed in this Cause shall be and hereby is approved.

2. Petitioner is granted a Certificate of Authority to issue long-term debt in one or more issues to the SRF in principal amount not to exceed \$1.8 million as approved herein. This Order shall be the sole evidence of Petitioner’s certificate.

3. The rates and charges set forth in Paragraph 5(B), which result in rates 42.23% higher than those proposed by Petitioner, are approved. Within 30 days of the completion of construction, Petitioner shall file under this Cause a true up to its schedule of rates and charges with the Water/Wastewater Division of the Commission as described herein. Petitioner’s initial schedule of rates and charges shall be filed consistent with this Order and the Commission’s rules for filing such schedules. Such rates and charges will become effective once approved by the Water/Wastewater Division of the Commission.

4. In accordance with Ind. Code § 8-1-2-70, Petitioner shall pay the following itemized charges within 20 days from the date of the Order, into the Treasury of the State of Indiana, through the Secretary of the Commission:

Commission Charges:	\$ 1,980.84
OUCC Charges:	\$ 8,991.34
Legal Advertising Charges:	\$ 58.42
Total:	\$11,030.60

5. In accordance with Ind. 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. This Order shall be effective on and after the date of its approval.

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

APPROVED: NOV 27 2019

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



Mary M. Becerra
Secretary to the Commission