

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE SANITARY DISTRICT OF ) CAUSE NO. 43307  
HAMMOND FOR APPROVAL OF A SCHEDULE OF )  
FEES FOR SEWER SERVICE ) APPROVED:

JAN 04 2008

**BY THE COMMISSION:**

**Gregory D. Server, Commissioner**  
**Aaron A. Schmoll, Administrative Law Judge**

On June 25, 2007, the Sanitary District of Hammond ("Petitioner" or the "District") filed its Petition for approval of a schedule of fees for sewer service. Pursuant to public notice duly given and published, proof of which was incorporated into the record by reference and placed in the Commission's official file, the Indiana Utility Regulatory Commission ("Commission") conducted a Prehearing Conference on August 30, 2007, in Room 222 of the National City Center, 101 W. Washington Street, Indianapolis, Indiana, and issued its Prehearing Conference Order on September 26, 2007.

On August 31, 2007, Petitioner filed a Motion to Amend Petition and Caption to include a request for approval of rates for solid waste or trash pickup service. The Indiana Office of Utility Consumer Counselor ("OUCC") filed a response in opposition to Petitioner's request on September 11, 2007. In a docket entry dated September 14, 2007, the Presiding Officers denied Petitioner's motion. On September 19, 2007, the Town of Munster, Indiana filed a petition to intervene, which was granted by Docket Entry dated October 30, 2007.

Pursuant to public notice duly given and published, proof of which was incorporated into the record by reference and placed in the Commission's official file, a field hearing was held on October 30, 2007, at the Wilbur Wright Middle School in Munster, Indiana. One individual appeared and provided testimony.

Pursuant to public notice duly given and published, proof of which was incorporated into the record by reference and placed in the Commission's official file, an evidentiary hearing was held on December 10, 2007, in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing the District and the OUCC appeared by counsel and offered their respective prefiled testimony and exhibits which were admitted into evidence without objection. No members of the general public were present at the hearing.

Based upon the applicable law and the evidence of record in this Cause, the Commission now finds that:

1. **Notice and Jurisdiction.** Proper notice of the hearing in this Cause was given as required by law. Petitioner was created under Ind. Code § 36-9-25-3(b)(2). Petitioner is a political subdivision organized for purposes of providing sewer service within and around the City of Hammond and the Town of Munster within the District's boundaries. Pursuant to Ind.

Code § 36-9-25-11.3, any change in Petitioner's schedule of fees does not take effect until it has been approved by the Board and either the legislative bodies for both the City of Hammond and the Town of Munster or this Commission. Thus, the Commission has jurisdiction over Petitioner and the subject matter of this Cause in the manner and to the extent provided by the laws of the State of Indiana.

**2. Petitioner's Characteristics and Business.** Petitioner owns, operates, manages and controls plant and equipment for the collection, treatment and disposal of waste water within the District's boundaries and operates under the control of the Board of Sanitary Commissioners ("Board"). The City of Hammond ("Hammond") is a city and the Town of Munster ("Munster") is a town, both located in Lake County. Lake County has a population of more than 400,000 and less than 700,000. The Board was formed pursuant to Ind. Code § 36-9-25-3(b)(2). The District contains one city having a population of less than 100,000 (Hammond) and at least one town (Munster). Both Hammond and Munster have appointments to the Board.

District Witness William E. Biller, business manager for the District, described the District and the services it provides as follows: (1) the District was formed in 1938 and its sewage disposal plant was completed in 1941; (2) Munster was added to the District's jurisdiction in 1948; (3) in addition to treating sanitary wastewater from homes, the District treats wastewater from businesses and industrial users in and around Hammond and Munster; (4) the District serves 150,000 people over a 50-mile geographic area and is responsible for nearly 400 miles of District sewers; (5) the District also provides wastewater treatment services on a contract basis with the nearby communities of Whiting, Highland and Griffith ("Customer Cities"); and (6) the plant processes an average daily flow of 40 million gallons of wastewater, containing more than 100,000 pounds of solids.

District Witness Scott Miller, a Certified Public Accountant and a principal in the firm of H.J. Umbaugh & Associates, Certified Public Accountants, LLP explained the relief the District is seeking in this Cause. He explained that historically, municipal sewer rates have not been approved by this Commission. He stated that an amendment to the Indiana Code was recently adopted which provides this Commission with limited jurisdiction to approve rates for sewer service by districts like the Sanitary District of Hammond. He stated that a sanitary district's rates, to the extent they apply to property that is subject to full taxation, must be approved by the legislative bodies of each municipality within the district, meaning that both the City of Hammond Council and the Town of Munster Board would need to adopt an ordinance approving the District's rates for sanitary sewer service. Mr. Miller cited Ind. Code § 36-9-25-11.3(d)(2)(B) and stated that this statute allows that such rates may also be approved by this Commission as an alternative. Mr. Miller stated that since the District does not have the approval of the City of Hammond Council, the District is seeking approval of an increase in rates for sanitary sewer service from the Commission.

**3. Petitioner's Revenue Requirements.**

(a) Petitioner's Evidence. District Witness Miller was retained by the District to complete an accounting study to determine the rates necessary to support the pro forma revenue

requirements and make recommendations regarding changes in the District's present schedule of rates and charges for sewer service.

Mr. Miller stated that in addition to serving Hammond and Munster, the District also provides wholesale treatment services for the Customer Cities. He stated that the District's sewer rates and charges, exclusive of the excessive strength surcharges and Customer City treatment rates, were last adjusted on March 15, 1994. He stated that the excessive strength surcharges were last adjusted on January 25, 2006.

Mr. Miller described the fund structure of the District and how the revenues and revenue requirements flow between the District's different funds. He stated that the District's accounting structure is composed of ten different funds which receive revenues from various sources, and the District only spends the revenues deposited in a given fund based upon that fund's stated purpose. The ten funds consist of (1) operating and maintenance, (2) sewer replacement, (3) sewer maintenance, (4) bond and interest; (5) pretreatment; (6) stormwater; (7) construction; (8) electric mapping; (9) excess levy; and (10) unemployment.

Mr. Miller sponsored an Accounting Report (Exhibit SAM-2) summarizing the results of the accounting services performed for Petitioner in relation to the calculation of revised sewer rates and charges and explained how the Accounting Report is organized. Mr. Miller explained that the Accounting Report presents the District's test year financial statements by fund. Petitioner proposed the following Revenue Requirements:

<b>Revenue Requirement</b>	
Operating Expenses	\$11,153,916
Taxes other than Income	255,191
Depreciation Expense	<u>4,441,413</u>
Total Revenue Requirements	15,850,520
Less Interest Income	<u>117,614</u>
Net Revenue Requirements	15,732,906
Less: Revenues at current rates subject to increase	(6,531,734)
Other revenues at current rates	<u>(4,755,347)</u>
Justified Net Revenue Increase	<u>4,445,826</u>
Actual Requested Increase	<u>2,504,412</u>
Requested Percentage Increase	<u>38.34%</u>

Mr. Miller stated that while District operations would certainly benefit from receiving the total amount of revenues that could be supported, the District is sensitive to the resulting economic impact to its customers. He also explained that the District is in the process of negotiating the terms of a Long-Term Control Plan with the United States Environmental Protection Agency ("USEPA") and as a consequence of compliance with this plan and with USEPA clean water standards, the District will be required to undertake a number of capital projects in the future. Mr. Miller stated that these projects are expected to be funded with property tax supported bond issues and, while they will not impact the District's monthly user rates, they will result in an economic burden to the District's customers in the form of higher

property taxes. Mr. Miller also noted that the Accounting Report indicates that the District is proposing that the un-recovered revenues will come from depreciation expense, but only to the extent that all of the other expenses are fully recovered. He testified that if there are other adjustments that are made to the revenue requirements presented in the Accounting Report, the District will still propose an increase in revenues of \$2,504,412 by electing to recover more of its depreciation expense.

Lastly, Mr. Miller stated that the adjustments to test year expenses and revenues contained in the Accounting Report are fixed, known and measurable, the proposed level of revenues in the Accounting Report is reasonable and necessary to meet the pro forma revenue requirements of the District, and the proposed rates are fair, just and non-discriminatory.

(b) OUCC's Evidence. OUCC Witness Roger A. Pettijohn discussed his observations regarding Petitioner's service area, waste treatment facilities and operations and maintenance practices. He stated that he did not have any specific recommendations for Petitioner and that the District has a capable and veteran staff that can proficiently operate the plant and meet Permit requirements even under adverse high flow conditions. He stated that Petitioner seems to perform maintenance tasks, as possible, with in-house personnel as opposed to hiring contractors and is mindful of short and long range planning for repair and improvements of its structures. Finally, Mr. Pettijohn stated that when capital improvements are needed, Petitioner borrows funds from the State Revolving Fund Loan Program, but that no new capital improvements projects and no new debt are being proposed in this proceeding.

OUCC Witness Harold H. Riceman addressed Petitioner's proposed rate increase and specific revenue requirements. Mr. Riceman stated that although the OUCC does not accept Petitioner's projected need for an additional \$4,445,826 of revenues, it does agree that an increase of at least \$2,504,412 is justified and that the OUCC accepts Petitioner's proposed \$2,504,412 annual increase in revenues from rates. The OUCC proposed the following Revenue Requirements:

<b>Revenue Requirement</b>	
Operating Expenses	9,852,917
Taxes other than Income	228,261
Depreciation Expense	<u>4,444,514</u>
Total Revenue Requirements	14,525,692
Less Interest Income	117,614
Net Revenue Requirements	14,408,078
Less: Revenues at current rates subject to increase	(6,531,734)
Other revenues at current rates	<u>(4,755,347)</u>
Justified Net Revenue Increase	<u>3,120,997</u>
Actual Requested Increase	<u>2,504,412</u>
Requested Percentage Increase	<u>38.34%</u>

(c) Commission Discussion and Findings. Indiana Code Section 36-9-25-11.3(f) states:

The commission shall observe the following requirements when establishing fees for a district:

(1) Fees must be sufficient to enable the district to furnish reasonably adequate services and facilities.

(2) Fees for a service must be nondiscriminatory, reasonable, and just and must produce sufficient revenue, together with taxes levied under this chapter, to do the following:

(A) Pay all legal and other necessary expenses incident to the operation of the utility, including the following:

(i) Maintenance costs.

(ii) Operating charges.

(iii) Upkeep.

(iv) Repairs.

(v) Depreciation.

(vi) Interest charges on bonds or other obligations, including leases.

(B) Provide a sinking fund for the liquidation of bonds or other obligations, including leases.

(C) Provide a debt service reserve for bonds or other obligations, including leases, in an amount established by the board. The amount may not exceed the maximum annual debt service on the bonds or obligations or the maximum annual lease rentals, if any.

(D) Provide adequate money for working capital.

(E) Provide adequate money for making extensions and replacements to the extent not provided for through depreciation in clause (A).

(F) Provide money for the payment of taxes that may be assessed against the district.

(3) The fees charged by the district must produce an income sufficient to maintain district property in a sound physical and financial condition to render adequate and efficient service. Fees may not be too low to meet these requirements.

(4) If the board petitions the commission under subsection (e), the fees established must produce a reasonable return on the sanitary

district facilities.

(5) Fees other than fees established for a municipally owned utility taxed under IC 6-1.1-8-3 must be sufficient to compensate the municipality for taxes that would be due the municipality on the utility property located in the municipality if the property were privately owned.

(6) The commission must grant a request by the board to postpone an increase in fees until after the occurrence of a future event.

While the Petitioner has stated that its calculation of revenue increase that it could substantiate is \$4,445,826, and the OUCC has testified that Petitioner could justify a net revenue increase of \$3,120,997, Petitioner is only requesting an increase of \$2,504,412. The Commission finds that the rates and charges currently in effect for services rendered by Petitioner are not adequate to provide for Petitioner's annual revenue requirement and should be increased. Based upon the evidence presented, we find that Petitioner should be authorized to increase its rates by 38.34%, the full amount requested, which will generate an additional \$2,504,412 in annual revenue.

4. **Change to Rate Design.** District Witness Miller explained that the District is proposing to implement the rate increase pursuant to a cost of service study ("COSS") as opposed to an across-the-board increase in rates because the District is proposing a change in rate design. First, he stated that District Management has for a long time felt that its residential and commercial customers were subsidizing its industrial customers and the COSS bears this out. He stated that, to that end, the increase in flow rate for the industrial class is greater than the increase in the flow rate applicable to the residential/commercial class. Second, Mr. Miller stated that due to the passage of time, the District no longer has evidence that the existing rate structure is cost-based. Mr. Miller noted that while it is likely that the rates were cost-based when originally implemented, given the results of the study it is apparent that they are no longer cost-based. Finally, Mr. Miller stated that related to the second point, since this is the first time that rates for the District will be approved by this Commission, it seemed appropriate that those rates be based on a cost of service study. Mr. Miller also described the calculations made regarding the allocation of revenue requirements to the functional cost components, the subsequent allocations to customer classes and the resulting calculation of Petitioner's proposed rates.

OUCC Witness Scott A. Bell stated that he reviewed Petitioner's COSS and recommended that the Commission approve Petitioner's proposed rate design. Mr. Bell did note that Petitioner's Accounting Report (p. 21) identifies the District's proposed flow rate and customer charge but does not mention the existing excessive strength surcharges applicable to industrial customers, which will not be changed under Petitioner's proposed rate increase or its COSS. Mr. Bell recommended that Petitioner place the existing excessive strength surcharges applicable to industrial customers on its proposed tariff.

Based on the foregoing, we find that Petitioner's proposed rate design should be and

hereby is approved. Petitioner's excessive strength surcharges applicable to industrial customers, which the Petitioner did not seek to change in this proceeding, should be added to the list of rates and charges in Petitioner's tariff.

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

1. Petitioner shall be and hereby is authorized to increase its rates by 38.34%, which will generate an additional \$2,504,412 in annual revenue.

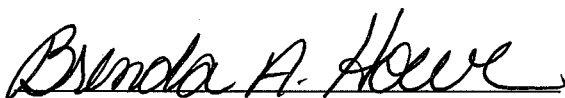
2. Petitioner shall file with the Water/Sewer Division of the Commission new schedules of rates and charges utilizing the rate design described by Mr. Miller before placing in effect the rate increase authorized herein. Petitioner's revised rate schedules shall be effective upon approval by the Commission's Water/Sewer Division.

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

**HARDY, GOLC, LANDIS, AND ZIEGNER CONCUR; SERVER ABSENT:**  
**APPROVED:**

JAN 04 2008

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



Brenda A. Howe  
Secretary to the Commission