

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN RE THE PETITION OF WASTEWATER )  
ONE, LLC, FOR ISSUANCE OF AN )  
EXPANDED CERTIFICATE OF )  
TERRITORIAL AUTHORITY TO RENDER )  
SEWAGE DISPOSAL SERVICE IN RURAL )  
AREAS OF FLOYD COUNTY, INDIANA, )  
CONTIGUOUS TO AN AREA THAT IT )  
PRESENTLY SERVES, AND FOR APPROVAL )  
OF A NEW SCHEDULE OF RATES AND )  
CHARGES FOR SEWAGE DISPOSAL )  
SERVICE )

CAUSE NO. 43482

DISMISSAL ORDER

APPROVED: AUG 12 2009

*[Handwritten signatures and initials: JLG, SDA, and a large signature]*

**BY THE COMMISSION:**

**Jeffrey L. Golc, Commissioner**  
**Aaron A. Schmoll, Administrative Law Judge**

On April 14, 2008, Petitioner Wastewater One, LLC ("Petitioner") filed its verified application in this Cause.

Based on the Petition and applicable law, the Commission makes the following findings:

1. **Commission Jurisdiction and Notice.** Petitioner is a "public utility" under Indiana Code 8-1-2-1 and is engaged in the business of supplying wastewater service. Accordingly, the Commission has jurisdiction over the Petitioner and the subject matter of this Cause.

On March 18, 2009, the Presiding Officers issued a Docket Entry that stated as follows:

On October 7, 2008, the Indiana Office of the Utility Consumer Counselor ("OUCC") filed its *Motion to Compel Response to Discovery and Motion to Stay Procedural Schedule*, which, following several email and telephone exchanges, was granted by the Presiding Officers by Docket Entry on December 2, 2008 without objection from Petitioner. The Presiding Officers have determined that there has been no activity in this Cause since December 2, 2008. As this matter has been pending for more than six months and is not currently set for hearing, the Presiding Officers hereby direct the Petitioner to notify the Commission within ten (10) calendar days if it believes that this matter should not be dismissed. In the event the Petitioner fails to notify the Commission within ten (10) calendar days regarding its desire to proceed in this Cause, the Commission may take steps to dismiss this matter pursuant to 170 IAC 1-1.1-24.

In its response filed on March 27, 2009, Petitioner indicated that it was still working with the OUCC to provide additional accounting data. In a later response to the Commission's May 7, 2009 Docket Entry requesting a status report, Petitioner indicated that it would be filing

revised testimony. On June 3, 2009, the Commission issued a Docket Entry stating that Petitioner would need to update its test year to no earlier than December 31, 2008 given the delay from the April 14, 2008 petition.

2. **Discussion and Findings.** Any proceeding that has been pending more than sixty (60) days that is currently not set for hearing nor has any action been taken by any party may be dismissed after the parties have been given at least ten (10) days notice. 170 IAC 1-1.1-24. The March 18, 2009 Docket Entry gave notice of the Commission's intention to dismiss. Therefore, the Commission finds that this Cause should be dismissed without prejudice. Upon preparing a revised case-in-chief with a timely test year, Petitioner may refile a petition under a new Cause seeking its requested relief.

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

1. Cause No. 43482, initiated by Wastewater One, LLC on March 18, 2009, is hereby dismissed without prejudice.
2. This Order shall be effective on and after the date of its approval.

**HARDY, ATTERHOLD, GOLC, LANDIS, AND ZIEGNER CONCUR:**

**APPROVED: AUG 12 2009**

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



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