

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF)	CAUSE NO. 43630 U
EAST LAWRENCE WATER AUTHORITY)	
FOR A NEW SCHEDULE OF RATES AND)	APPROVED: SEP 16 2009
CHARGES)	

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BY THE COMMISSION:

Jeffrey L. Golc, Commissioner
Angela Rapp Weber, Administrative Law Judge

On January 15, 2009, East Lawrence Water Authority ("East Lawrence" or "Applicant") filed with the Indiana Utility Regulatory Commission ("Commission") its Application for Small Utility Rate Change (the "Application") pursuant to the provisions of Indiana Code § 8-1-2-61.5 and 170 IAC 14-1. East Lawrence requested an increase in annual operating revenues in the amount of \$221,069, which is a 15.65% across-the-board rate increase. On January 28, 2009, Applicant filed with the Commission proof of publication of the notice of the Application pursuant to 170 IAC 14-1-2(d). Also on January 29, 2009, the Commission determined that Applicant's application was complete.

Pursuant to Indiana 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 by the Office of Utility Consumer Counselor ("OUCC"). On March 2, 2009, the OUCC filed a request for a public field hearing in order to receive customer comment. In addition, the OUCC requested that its filing deadline be continued in order to incorporate customer comments into its report. The Presiding Officers granted the OUCC's request pursuant to a Docket Entry issued on March 23, 2009. A public field hearing was held on May 27, 2009 at the Bedford Middle School, 1501 N Street, Bedford, Indiana. No member of the public attended or provided written comments.

On June 12, 2009, the OUCC filed its report ("Report") pursuant to 170 IAC 14-1-4. The Report discussed and made several recommendations to the Commission concerning the relief requested by East Lawrence. On June 18, 2009, Applicant filed a written response to the OUCC's Report indicating that it had no objections to the OUCC's Report.

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

- Statutory Notice and Commission Jurisdiction.** The information presented by East Lawrence in this Cause establishes that legal notice of the Application filing was published in accordance with law and that East Lawrence gave proper notice to its customers of the nature and extent of the relief it is seeking. Therefore, due, legal, and timely notice of the matters in this proceeding was given and published as required by law.

East Lawrence operates a water utility. It primarily provides water service to fewer than 5,000 retail customers and does not extensively serve another utility. Accordingly, Applicant is entitled to request an increase in its rates and charges for service pursuant to Indiana Code § 8-1-2-61.5 and 170 IAC 14-1. The Application satisfies all of the requirements of Indiana Code § 8-1-2-61.5 and 170 IAC 14-1. The Commission, therefore, has jurisdiction over the parties and subject matter of this case.

2. **Applicant's Characteristics.** East Lawrence Water Authority is located in Bedford, Indiana and serves approximately 3,200 customers in rural areas in Eastern Lawrence County and in small portions of Jackson and Washington Counties in Indiana. In 1968, Applicant was formed as a not-for-profit corporation. The Board of Directors voted to dissolve the not-for-profit structure in favor of a water authority. Accordingly, Applicant is a political subdivision of the State of Indiana pursuant to Indiana Code § 13-18-16-16 and treated as a not-for-profit entity for rate setting purposes. East Lawrence owns and operates plant and equipment within the State of Indiana for the production, transmission, delivery, and furnishing of water to its customers. It is operated by a general manager and six additional employees. All of Applicant's water is purchased from Bedford City Utilities.

3. **Test Period.** The test period selected for determining East Lawrence's revenues and expenses reasonably incurred in providing water utility service to its customers includes the twelve (12) months ending August 31, 2008. With adjustments for changes that are fixed, known and measurable, the Commission finds that this test period is sufficiently representative of East Lawrence's normal operations to provide reliable data for ratemaking purposes.

4. **Operating Revenue.** Applicant is a water authority, which is treated as a not-for-profit entity for rate setting purposes. Thus, its revenue requirement is determined on a "cash needs" basis. Applicant calculated its operating revenue to be \$1,412,998. The OUCC proposed an adjustment of (\$13,555), which resulted in operating revenues in the amount of \$1,426,553. The Commission finds that for ratemaking purposes East Lawrence's operating revenue is \$1,426,553.

5. **Revenue Requirements.** As noted above, East Lawrence requested a \$221,069 or 15.65% across-the-board increase in rates. The OUCC recommended that Applicant's rates should be increased by 13.40%, or \$191,215. The following table provides a comparison of the parties' proposed revenue requirements.

Comparison of Applicant's, and OUCC's
Revenue Requirements

	Per Petitioner	Per OUCC	Difference More/(Less)
<u>Revenue Requirements:</u>			
Extensions and Replacements	\$ 166,564	\$ 152,366	\$ 14,198
Operation & Maintenance Exp.	1,060,805	1,027,259	33,546
Taxes Other Than Income	77,173	77,173	-
Working Capital	3,809	14,276	(10,467)
Debt Service	360,960	360,960	-
Debt Service Reserve			
Total Revenue Requirements	<u>1,669,311</u>	<u>1,632,034</u>	<u>37,277</u>
Less: Interest Income	9,223	1,800	7,423
Other Revenues			
Forfeited Discounts			
Net Revenue Requirements	<u>1,660,088</u>	<u>1,630,234</u>	<u>29,854</u>
Less: Revenues at Current Rates	1,412,998	1,426,553	(13,555)
Other Revenues at current rates	<u>26,021</u>	<u>12,466</u>	<u>13,555</u>
Revenue Increase Required	<u>\$ 221,069</u>	<u>\$ 191,215</u>	<u>\$ 29,854</u>
Recommended Percentage Increase	<u>15.65%</u>	<u>13.40%</u>	<u>2.24%</u>

A. Operation and Maintenance. The OUCC accepted Applicant's adjustments to purchased water, salaries and wages, and FICA tax.

1. Rate Case Expense. The OUCC added \$3,000 to Applicant's proposed rate case expense of \$4,000 to reflect the Commission's and the OUCC's charges, to be amortized over five years. This adjustment yields a pro forma increase of \$4,600 to test year operating expenses, compared to East Lawrence's proposed increase of \$4,000.

2. Insurance and Employee Benefits. After reviewing East Lawrence's submitted schedules, the OUCC made adjustments to Applicant's insurance and employee benefits costs. Specifically, the OUCC reduced the annual cost of health and life insurance by \$2,352; increased the annual cost of general liability, bonds, and auto insurance by \$55; and increased the annual cost of worker's compensation insurance by \$301. These adjustments yield a pro forma increase of \$2,066 to test year operating expenses.

3. Non-Recurring Expense and Capital. East Lawrence proposed a \$60,960 adjustment to its non-recurring capital. The OUCC included \$494 for holiday party costs. The result is a pro forma decrease in the amount of \$61,454 to test year operating expenses.

4. Water Tests. The OUCC determined the test year expense for water tests to be \$1,542 as opposed to Applicant's calculation of \$334. This yields a pro forma increase to test year operating expenses in the amount of \$4,752.

5. Maintenance. East Lawrence requested an increase to Operation and Maintenance expense in the amount of \$75,814 annually for tank painting and maintenance. East Lawrence used a ten-year amortization period for this expense. The OUCC increased the amortization period for tank painting to fifteen years. In addition, the OUCC decreased the cost of painting the Texas Gas Tank from \$235,641 to \$175,000. These adjustments result in a \$55,468 pro forma increase to Applicant's test year operating expenses rather than the \$75,814 increase proposed by East Lawrence.

6. Capitalized Labor. The OUCC capitalized the labor costs associated with each new customer connection at a cost of \$106.60 per connection. This adjustment yields a pro forma decrease in the amount of \$2,452 to test year operating expenses.

The Commission hereby finds that the adjustments made to East Lawrence's Operation and Maintenance expense by the OUCC are hereby reasonable.

B. Extensions and Replacements. The OUCC proposed that a \$50,109 utility storage building be amortized over twenty years instead of the three years used by Applicant. The OUCC explained that the building's usefulness will last longer than three years. This adjustment reduces the annual revenue requirement by \$14,198. The OUCC recommended a pro forma Extensions and Replacements revenue requirement of \$152,366 as opposed to the \$166,564 proposed by East Lawrence. The Commission finds that the OUCC's adjustment to Extensions and Replacements should be approved.

C. Working Capital. According to the OUCC, Applicant incorrectly included taxes other than income in the amount of \$77,173 in its calculation for operating and maintenance expense. The OUCC stated that these taxes are paid in arrears and should not be included in operating expenses. Further, the OUCC stated that Applicant has \$24,080 cash on hand instead of the \$69,482 included in Applicant's case-in-chief. After making these adjustments, the OUCC calculated East Lawrence's working capital shortfall to be \$42,827 and proposed to amortize this shortfall over three years, or \$14,276 annually. The OUCC suggested that this increase in the annual working capital revenue requirement will provide adequate funds for Applicant's Operation and Maintenance because it will be fully funded in three years. The OUCC requested that the Commission require East Lawrence to reduce its rates by \$10,467 (\$14,276 less \$3,809) or in the alternative file a new rate case ninety days after January 1, 2012. The Commission finds that the OUCC's suggested increase to Applicant's Working Capital should be approved. However, Applicant is not required to reduce its rates or file a rate case as suggested by the OUCC. No evaluation has been performed of the utility's costs for the year 2012. And, it is likely that inflation will

erode the OUCC's proposed \$10,467 rate reduction. Finally, the Commission notes that that the OUCC included \$23,000 for rate case expense in this Cause, which exceeds the proposed savings.

D. Debt Service. East Lawrence presented its Debt Service Requirement over a three-year period (2009-2011). The OUCC recommended a five-year average since Applicant's last rate case was six years ago. Therefore, Applicant's annual revenue requirement would be \$353,431 for Debt Service rather than the \$360,960 proposed by East Lawrence. However, the OUCC stated that this lower Debt Service Requirement penalizes East Lawrence because it would not be able to make the average \$360,960 debt service payment. The OUCC accepted the proposed annual revenue requirement of \$360,960, but recommended that the Commission require the Applicant to reduce its rates by \$15,836¹ (\$360,965 less \$345,129) to reflect a lower debt service payment in the year 2012 or file a new rate case within ninety days after January 1, 2012. The Commission finds that Applicant's Debt Service Requirement shall be \$360,960. East Lawrence is not required to reduce its rates or file a rate case as recommended by the OUCC for the same reasons outlined in the previous paragraph.

E. Debt Service Reserve. East Lawrence borrowed \$89,210 from its Debt Service Reserve account to make a bond payment that was due on January 1, 2009 in the amount of \$164,719. As of February 28, 2009, the balance in the Debt Service Reserve account was \$182,919. In its Report the OUCC anticipated that East Lawrence would need to borrow from this account to make its July 1, 2009 debt payment. The OUCC recommended that Applicant should replenish its Debt Service Reserve Account and suggested that savings realized as a result of Applicant's reduction in water losses, discussed below, should be used to do so. The Commission hereby finds that East Lawrence shall replenish its Debt Service Reserve account and use funds acquired as a result of its reduction of water losses and any other available funds that can be used for the replenishment of the account.

6. Additional OUCC Recommendations. The OUCC noted that East Lawrence obtained financing in the form of a \$200,000 note on November 23, 2007 at a rate of 7.250% maturing on January 1, 2015. These funds were used to refurbish the Texas Gas Tank in 2008 at a cost of \$198,600. Applicant did not request and receive Commission authorization to obtain these funds. The OUCC recommended that East Lawrence seek Commission approval of any long-term debt it wishes to obtain in the future. The Commission hereby finds that in the future East Lawrence shall seek Commission approval to secure long-term debt pursuant to Indiana Code § 8-1-2-76 thru Indiana Code § 8-1-2-83.

According to the OUCC, East Lawrence experienced a 26.83% water loss during the test year. Applicant repaired several large leaks and expected a reduction in water losses in the future. The OUCC did not make an adjustment to purchased water to reflect a reduction in water losses since this is not fixed, known, and measurable. The OUCC suggested that if East Lawrence experiences savings for purchased water as a result of a reduction in water

¹ The Commission notes that in the Report the OUCC incorrectly recommended that Applicant's reduction should be \$15,831.

losses, the savings should be used to replenish its Debt Service Reserve account discussed above in Paragraph 5E. The OUCC added that the Commission should require Applicant to adopt a program to regularly monitor its water loss and to locate leaks. In addition, East Lawrence should submit to the Commission as an attachment to its 2009 and 2010 Annual Reports a separate water loss report for those respective years. The Commission finds that East Lawrence shall file with the Commission a Water Loss Report to be attached to its 2009 and 2010 Annual Reports.

7. **Applicant's Response.** East Lawrence's June 18, 2009 written response stated that Applicant had no objection to the recommendations made in the OUCC's Report.

8. **Conclusion.** The Commission finds that the rates proposed by East Lawrence, as adjusted by the OUCC, are just and reasonable. A summary of the above findings are illustrated in the following table:

<u>Statement of Revenue Requirements</u>	
Extensions and Replacements	\$ 152,366
Operation & Maintenance Expenses	1,027,259
Taxes Other Than Income	77,173
Working Capital	14,276
Debt Service	360,960
Debt Service Reserve	-
Total Revenue Requirements	<u>1,632,034</u>
Less: Interest Income	<u>1,800</u>
Net Revenue Requirements	1,630,234
Less: Revenues at Current Rates	1,426,553
Other Revenues at current rates	<u>12,466</u>
Revenue Increase Required	<u><u>\$ 191,215</u></u>
Percentage Increase	<u><u>13.40%</u></u>

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

1. Consistent with the findings above, East Lawrence is hereby authorized to increase its rates and charges by 13.40% across-the-board in order to produce additional revenue in the amount of \$191,215.

2. Prior to placing into effect the rates and charges approved herein, East Lawrence 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 for filing such schedules. Such rates and charges will become effective for all water service usage upon

approval thereof by the Water/Sewer Division of the Commission. When filed with the Commission and approved, such schedule shall cancel all prior rates and charges.

3. Applicant shall file its Water Loss Report as an attachment to its 2009 and 2010 Annual Reports due April 30, 2010 and April 30, 2011, respectively, as specified in Paragraph 6 under this Cause.

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

HARDY, ATTERHOLT, GOLC, LANDIS, AND ZIEGNER CONCUR:

APPROVED: SEP 16 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**