

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION


JDA
JLG


IN THE MATTER OF THE PETITION OF)
THE TOWN OF CHANDLER, INDIANA,)
FOR APPROVAL OF A NEW SCHEDULE)
OF RATES AND CHARGES FOR WATER)
UTILITY SERVICE AND FOR AUTHORITY)
TO ISSUE REVENUE BONDS TO PROVIDE)
FUNDS FOR THE COSTS OF THE)
ACQUISITION AND INSTALLATION OF)
IMPROVEMENTS AND EXTENSIONS TO)
THE WATERWORKS OF THE TOWN)

CAUSE NO. 43658

APPROVED: JAN 06 2010

BY THE COMMISSION:

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

On March 18, 2009, the Town of Chandler, Indiana (“Chandler”) filed with the Indiana Utility Regulatory Commission (“Commission”) its Petition for approval of a new schedule of rates and charges for water utility service rendered by Chandler’s waterworks and the issuance of up to \$6.6 Million of waterworks revenue bonds to finance the costs of improvements and extensions to its waterworks utility. On May 15, 2009, Chandler prefiled its testimony and exhibits constituting its case-in-chief. On August 11, 2009, the Office of Utility Consumer Counselor (“OUCC”)(together with Chandler, the “Parties”) prefiled its case-in-chief. On August 25, 2009, Chandler filed a Notice of Settlement indicating that the Parties had reached a settlement in principle and the settlement agreement and supporting testimony would be prefiled at least five (5) business days in advance of the public hearing in this Cause. On September 8, 2009, Chandler and the OUCC submitted their Joint Stipulation and Settlement Agreement (the “Settlement”) and testimony in support thereof.

Pursuant to notice given as provided by law, an evidentiary hearing was held in this matter on September 15, 2009, at 9:30 a.m. in Judicial Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. At that hearing, Chandler offered its prefiled testimony and exhibits, which were admitted into evidence without objection. The OUCC also offered its prefiled testimony and exhibits, which were admitted into evidence without objection. The Settlement was also offered into evidence without objection.

Having considered the evidence and being duly advised in the premises, the Commission now finds that:

1. **Notice and Jurisdiction.** Notice of the time and place of the evidentiary hearing conducted in this Cause was given as required by law. Chandler owns and operates municipally owned utility rendering water utility service to the public in and around its municipal corporate limits in Warrick County, Indiana. Chandler is subject to Commission jurisdiction as prescribed

by Ind. Code § 8-1-2, § 8-1.5-2-19, and § 8-1.5-3-8. The Commission has jurisdiction over Chandler and the subject matter of this Cause.

2. **Chandler's Characteristics.** Chandler serves approximately 5,530 customers both within and outside of its municipal corporate boundaries. Chandler's customer base is comprised of residential, commercial, industrial, and other customers. Chandler's existing rates and charges for water utility service were approved by the Commission in an Order issued on January 31, 2006 in Cause No. 42856.

3. **Background and Requested Relief.** In Cause No. 42856, Chandler proposed several capital improvements projects. Pursuant to a settlement agreement reached with the OUCC, Chandler agreed to separate its request for approval of the overall capital improvement plan into three phases. The Commission approved Phase I, construction of two water towers, pursuant to an Order dated January 31, 2006.

Chandler initiated this Cause seeking approval of Phase II of its capital improvement plan—construction of a water treatment plant. To finance Phase II, Chandler requested that the Commission approve a two-step rate increase of 4.8% (Step I) and 13.8% (Step II), respectively, and the issuance of approximately \$5.38 Million in water utility revenue bonds to be financed through the State of Indiana's State Revolving Fund Loan Program (the "SRF") or on the open market, depending on SRF funding availability. In the Settlement, Chandler agreed to the OUCC's proposed two-step rate increase of 5.54% (Step I) and 12.48% (Step II), respectively, and the same financing as proposed by Chandler.

4. **Test Year.** The test year for determining Chandler's current revenues and expenses incurred in providing service to the public is the twelve months ended December 31, 2008, adjusted for changes that are representative of future operations and sufficiently fixed, known, and measurable for ratemaking purposes. The Commission finds the test year selected is sufficiently representative of Chandler's normal operations to provide reliable data for ratemaking purposes.

5. **Chandler's Case-in-Chief.** Ind. Code § 8-1.5-2-19 provides that a municipality may not issue bonds, notes, or other obligations with a maturity greater than one year for purposes of making improvements to its utility without the approval of the Commission. The Commission reviews a proposed bond issue based upon two elements: first, the Commission must consider whether the proposed capital improvements are reasonably necessary to enable the rendering of adequate and efficient water utility service; and second, the Commission must determine whether the proposed bond issue is a reasonable method for financing the necessary capital improvements.

Chandler submitted evidence through the testimony and exhibits of Mark DeBruler, P.E., of Beam, Longest and Neff, LLC, concerning Chandler's capital improvements program. Mr. DeBruler explained that Chandler is seeking approval for Phase II of the program in this Cause. He identified a new water treatment plant in his testimony as the primary project in Phase II.

According to Mr. DeBruler, Chandler's service area extends well beyond the boundaries of the Town of Chandler, and this area has experienced significant residential and commercial growth in recent years. As a result, Chandler's existing water treatment plant, constructed in 1966, does not have adequate capacity to meet Chandler's anticipated demand. In addition, significant portions of Chandler's treatment facilities are nearing the end of their useful lives. Mr. DeBruler also explained that the existing system has been expanded twice, and the water treatment plant is now functionally three separate plants. Currently, sets of two wells must supply each of the three treatment systems at the water treatment plant, forcing three wells to be in standby service. Mr. DeBruler testified that it would be more efficient to have one standby well and five wells in production. Expansion of Chandler's water treatment plant would be difficult and cost-prohibitive and would compound existing inefficiencies of the treatment plant.

As a result, Mr. DeBruler recommended that Chandler construct a new water treatment plant in Phase II of the capital improvements program. He submitted to the Commission an Engineering Needs Assessment, which detailed the recommended extensions and replacements to Chandler's water system. The new water treatment system is designed to have a capacity of 3,000 gallons per minute ("gpm") and to serve Chandler's needs for twenty to twenty-five years. It may also be expanded in 1,000 gpm phases to a maximum capacity of 7,000 gpm. Mr. DeBruler stated that the new water treatment system will use catalytic media in conventional pressure filters to remove iron and manganese and will save capital and maintenance costs. Construction cost estimates are approximately \$5,553,000.

As a result of the construction of the new water treatment plant, Chandler's six wells will supply a single treatment system. Mr. DeBruler also recommended miscellaneous improvements, which include a GIS Action Plan that will map the location of all valves and fire hydrants, a Manpower and Operations and Maintenance Action Plan, and Land Development Standards. He concluded by stating that Phase II improvements are needed and are a reasonable and prudent solution for Chandler's water utility.

Additionally, Chandler's witness, Scott A. Miller, CPA, of H.J. Umbaugh & Associates, Certified Public Accountants, LLP, provided an Accounting Report, which contained, among other things, an explanation of the Phase II costs and funding and the pro forma financial information for the test year. Mr. Miller testified that total estimated Phase II costs, including construction, construction contingencies, and non-construction costs, are \$6,801,129. Mr. Miller testified that Phase II is anticipated to be funded with cash on hand, together with the proposed waterworks revenue bonds. He explained that Chandler has approximately \$900,000 of remaining Phase I bond proceeds that will be applied to the costs of Phase II. In addition, as a part of Cause No. 42856, Chandler was required to set up a future capital improvements program reserve account, which segregated funds that were collected in excess of the actual debt service requirements for the first several months that the Phase I rates were in effect.

Mr. Miller stated that Chandler has approximately \$285,216 available in this account and approximately \$235,913 of available funds in its system development charge account that will be applied to Phase II. This leaves approximately \$5.38 Million to be funded with waterworks revenue bonds. Further, Mr. Miller stated that the proposed bonds have been wrapped around Chandler's outstanding bonds to provide stability in its annual debt service reserve payments.

The annual debt service for the outstanding and proposed bonds is approximately \$888,708. He proposed a two-step rate increase and explained that in order to provide sufficient revenues to meet the pro forma annual revenue requirements, the current normalized annual revenues shown in the Accounting Report would need to be increased by \$121,982 for Step I and an additional \$366,790 for Step II, or approximately 4.8% and 13.8% percent across-the-board, respectively.

According to Mr. Miller, Chandler proposed to issue through the SRF or another source approximately \$5.38 Million in water utility revenue bonds. The Accounting Report amortized the proposed bonds over twenty years at an assumed 3.63% interest rate. Mr. Miller explained that the final interest rate will not be known until Chandler closes on a bond issue. Therefore, Chandler may need to perform a true-up of its debt service and debt service reserve requirements once Phase II is complete and the actual debt service is known. Mr. Miller testified the proposed bond issue is a reasonable method to finance the proposed improvements.

Mr. Miller concluded by explaining adjustments to Chandler's annual operating expenses depicted in the Accounting Report. He made adjustments to payroll expense, employee benefits, purchased power, operating expenses for non-recurring or capital items, periodic maintenance expense, agent fees, insurance expense, and utility receipts tax. Mr. Miller also included in revenue requirements an amount for replacements and improvements. He explained that the available cash balances from Phase I and the System Development and Future Project Reserve will be expended on Phase II. Mr. Miller testified that in his opinion, the proposed rates depicted in the Accounting Report are fair, just, and reasonable.

6. OUCC's Case-in-Chief. Charles E. Patrick, a Utility Analyst in the OUCC's Water/Wastewater Division, provided testimony concerning Chandler's proposed rate increase and specific revenue requirements. Mr. Patrick also recommended a two-step, overall across-the-board rate increase of 18.74% and financing approval of up to \$5.38 Million. Step I will provide a 5.54% increase to cover increased operating costs, current debt service obligations, and a depreciation allowance. Step II will provide a 12.84% increase and will cover additional operating costs and debt service obligations on the proposed financing. Mr. Patrick explained that the sum of the two-phased rate increase of 18.06% is less than the overall rate increase of 18.74% because the rate increase for Step II will be applied to total revenue from increased rates already implemented in Step I.

Mr. Patrick made several adjustments to Chandler's revenues subject to increase. He identified and reclassified metered water sales among residential, commercial, and industrial customers and fire protection and other water revenues categories. Mr. Patrick also recalculated residential growth during the test year and accounted for residential growth during January through July 2009. He also readjusted commercial revenue because of a misclassification of a refund to Fifth Third Bank. Finally, Mr. Patrick adjusted penalty discounts because late fees will increase as water rates increase.

Mr. Patrick described the differences between Chandler's and the OUCC's pro forma revenue requirement. The OUCC's proposed Step I revenue requirement is greater than Chandler's proposed revenue increase by \$60,134 because of variances in operating expenses, taxes other than income, depreciation, and other operating receipts. The OUCC's proposed Step

II revenue requirement is less than Chandler's proposed revenue increase by \$31,704 because of variances in the same categories listed for Step I.

Mr. Patrick next discussed the adjustments he made to Chandler's test year revenues. As described above, he reclassified water revenues into different categories, which resulted in a residential growth adjustment in 2008 in the amount of \$10,730. As also described previously, Mr. Patrick recalculated a residential growth rate for the known growth rate for 2009 in the amount of \$27,444, and he reduced commercial revenues for the refund to Fifth Third Bank in the amount of \$6,503.

Mr. Patrick explained that he accepted the following adjustments to operating expenses: operating salaries and wages, agency fees, purchased power, and payroll taxes. However, he modified Step I operating expense adjustments made to administrative salaries and wages, employee benefits, non-recurring and capital disbursements, maintenance, insurance, depreciation expense, and utility receipts tax. He modified Step II adjustments for depreciation expense and utility receipts tax only. Mr. Patrick made operating expense adjustments for capitalized labor, state board of accounts and fees, and office repair. Mr. Patrick's proposed Step I operating expenses totaled \$1,979,192, while Step II operating expenses totaled \$2,207,762. Finally, Mr. Patrick testified that the OUCC agreed with Chandler's proposed debt service and debt service reserve.

Roger A. Pettijohn, a Senior Utility Analyst for the OUCC's Water/Wastewater Division, provided testimony concerning Chandler's Phase I capital items in service and Chandler's proposed Phase II capital improvement project. He also provided customer comments received by the OUCC. He first provided an overview of projects completed in Phase I that are now used and useful. He then discussed projects proposed in Phase II.

Mr. Pettijohn described the major project proposed in Phase II as a 4.25 million gpd water treatment facility. He stated that the plant will provide pressure filtration and a fluoride and chlorine chemical application. Iron and manganese will be removed by a LayneOx catalytic filter media. He noted that this media and a construction permit have been approved by the Indiana Department of Environmental Management. Mr. Pettijohn stated that as a result of the age of Chandler's current plant, its design deficiencies described by Mr. DeBruler, and the area's growth rate, the new water treatment facility is Chandler's best alternative. Finally, Mr. Pettijohn noted that Phase III will consist of the design and construction of transmission and distribution system improvements.

7. **Settlement Agreement.** The Settlement filed with the Commission provided the terms and conditions to which the Parties agreed with respect to the issues presented by Chandler in its case-in-chief. Among other things, the Parties were able to agree to specifics concerning Chandler's rates and charges and the issuance of water utility revenue bonds. The Parties stipulated and agreed that Chandler's test year operating revenues were \$2,537,206 and that Chandler's current rates and charges are inadequate. The Parties further agreed that Chandler's rates and charges should be increased in two steps.

In Step I, Chandler's rates and charges should be increased across-the-board and immediately upon the issuance of a Commission Order in this Cause by 5.54% to produce \$141,015 in additional operating revenues. Thus, in Step I, Chandler's pro forma proposed operating revenues will be \$2,709,892. The Parties stipulated and agreed that Chandler shall be authorized to issue water utility revenue bonds in an amount not to exceed \$5.38 Million. Accordingly, the Parties stipulated and agreed that Chandler should be authorized to increase across-the-board its Step II rates and charges twelve (12) months after closing on the water utility revenue bonds by an additional 12.48% to produce an additional \$335,157 in operating revenues. After such adjustment, Chandler's pro forma proposed operating revenues for Step II will be \$3,045,050. The Parties stipulated that the agreed-to rate increases for Step I and Step II are just and reasonable.

Since the details of the water revenue bonds, such as the actual principal amounts, the interest rates, and the cost of the annual debt service, will not be known until Chandler closes on them, the Parties agreed that Chandler may have to true up these amounts once it closes on the financing. The Parties stipulated and agreed that within thirty (30) days of closing on the water revenue bonds, Chandler should file a true up with the Commission and serve the true up on all parties of record. According to the Settlement, the true up report should use the same methodologies reflected in the evidence in this proceeding and include the following: the actual principal amount finally borrowed, the interest rate used, the term of the water utility revenue bonds, the actual annual debt service and debt service requirements, the actual annual debt service reserve requirement, and the impact any difference would have on Chandler's rates.

In support of the Settlement, Chandler filed the testimony of Scott A. Miller. Mr. Miller testified that he does not agree with all of the adjustments Mr. Patrick made to Chandler's pro forma revenue requirements. However, Mr. Miller stated that Mr. Patrick's proposed adjustments do not have a material impact on the outcome of this Cause. He noted that the Parties agree that the construction of a new water treatment facility proposed in this Phase II is reasonably necessary, the proposed financing is appropriate, and the resulting increase in rates and charges is warranted. Mr. Patrick stated that the Settlement avoids the cost of a litigated proceeding, and Chandler accepts the impact of Mr. Patrick's proposed adjustments, which were described previously.

8. Applicable Law. Ind. Code § 8-1.5-3-8 (a) states, "A municipality owning a utility under this chapter shall furnish reasonably adequate services and facilities." Ind. Code § 8-1.5-3-8(c) provides, "Reasonable and just rates and charges for services" means rates and charges that produce sufficient revenue to:

(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.

While Ind. Code § 8-1.5-3-8 also empowers a municipally owned utility to request a reasonable return on its utility plant, Chandler did not request such a return in this Cause.

9. Commission Discussion and Findings. Pursuant to the Commission's procedural rules and prior determinations, a settlement agreement will not be approved by the Commission unless it is supported by probative evidence. 170 IAC 1-1.1-17. Settlement agreements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement agreement, that settlement agreement “loses its status as a strictly private contract and takes on a public interest gloss.” *Id.* (quoting *Citizens Action Coalition v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission “may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement.” *Citizens Action Coalition*, 664 N.E.2d at 406.

Furthermore, any Commission decision, ruling, or order—including the approval of a settlement agreement—must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). Therefore, before the Commission can approve the Settlement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement is reasonable, just, and consistent with the purpose of Ind. Code § 8-1-2, and that the Settlement serves the public interest.

According to the evidence presented, Chandler's service area has experienced significant residential and commercial growth in recent years. Chandler's existing water treatment plant does not have adequate capacity to meet the demand anticipated as a result of this growth. The existing system has been expanded on two occasions, and as a result, the water treatment plant is now functionally three separate plants. Two wells supply the three treatment systems at the water treatment plant, while three wells are forced into standby service, which is inefficient. Ideally, Chandler's system would be comprised of one standby well with five wells in production. Further, Chandler's current treatment facilities were built in 1966 and are nearing the end of their useful lives. Expansion of the Chandler's water treatment plant is not the best option because it would be problematic and cost-prohibitive and would exacerbate the existing inefficiencies of the treatment plant.

Upon review of the evidence of record, the Commission finds that Chandler's proposed Phase II capital improvement project is reasonably necessary to remedy the issues with Chandler's current water treatment facilities described in the previous paragraph and supported by the evidence. A new water treatment facility will also enable Chandler to provide adequate facilities and services in accordance with Ind. Code § 8-1.5-3-8. The Commission also finds that the proposed bond issue in an amount not to exceed \$5.38 Million is a reasonable manner in which to finance the water treatment facility.

In addition, the Commission, having reviewed the evidence, determines that it is ample to support the Settlement. The Settlement addresses the issues described above and reasonably resolves them. Specifically, the Settlement provides Chandler with sufficient operating revenues to complete the water treatment facility and to provide adequate service in pursuant to Ind. Code § 8-1.5-3-8. The Commission finds that the Settlement, which is attached to this Order, is reasonable, just, and in the public interest. Therefore, the Settlement is hereby approved.

Thus, the Commission finds that Chandler's current rates and charges are inadequate to provide for Chandler's annual revenue requirement, and based upon the evidence presented, the Commission finds that the net revenue increase required in Step One for Chandler's municipally owned utility is \$141,015. Chandler's water utility revenues should therefore be increased by 5.54% in Step One. In Step Two, the Commission finds that Chandler's annual revenue will increase by an additional \$335,157, and the water utility revenues should therefore be increased by 12.48%. Accordingly, after adjustment (including the issuance of the proposed bond issue), Chandler's pro forma test year operating revenues at proposed rates will be \$2,709,892 for Step One and \$3,045,050 for Step Two. Chandler's net revenue requirements are illustrated below:

Chandler Municipal Water Revenue Requirements

	<u>Step I</u>	<u>Step II</u>
<u>Revenue Requirements:</u>		
Operation & Maintenance Exp.	\$ 1,625,110	\$ 1,625,110
Depreciation	237,834	461,712
Taxes Other Than Income	82,912	84,886
Working Capital		
Debt Service (Current)	585,308	585,308
Debt Service (Proposed)	195,294	301,881
Debt Service Reserve	35,460	35,460
Total Revenue Requirements	2,761,918	3,094,357
Less: Interest Income	(24,985)	(24,985)
Interdepartmental Sales	(29,015)	(29,015)
Other Operating Receipts	(24,969)	(24,969)
Net Revenue Requirements	2,682,949	3,015,388
Less: Revenues at Current Rates	2,543,908	2,684,923
Other Revenues at current rates		
Revenue Increase Required	139,041	330,465
Divide by Revenue Conversion Factor (1-1.4%)	0.986	0.986
Net Revenue Increase Required	\$ 141,015	\$ 335,157
Recommended Percentage Increase	5.54%	12.48 %

The Parties agree that the Settlement should not be used as an admission or as precedent against the Parties in any other proceeding, except to the extent necessary to implement or enforce its terms. Consequently, with regard to future citation of the Settlement, the Commission finds that our approval herein should be construed in a manner consistent with the Commission's findings in *Richmond Power & Light*, Cause No. 40434 (*Ind. Util. Reg. Comm'n*, March 19, 1997).

10. True Up. As discussed previously, the actual cost of debt service will not be known precisely until sometime after Chandler issues its proposed bonds. Within thirty (30) days of closing on the proposed bonds, Chandler shall file a true up report with the Commission and serve a copy thereof on the parties of record. The true up report shall use the same calculation methodologies used to calculate the revenue requirement agreed to by the Parties. The true up report shall provide the following information: the actual principal amount borrowed, the interest rate, the term of the bonds, the actual average annual debt service requirements, the actual average annual debt service reserve requirement, and the impact that any difference would have on Chandler's rates and charges.

If the average annual debt service requirements are lower than those provided for in the authorized rates and the OUCC deems the difference to be material, the OUCC shall have fifteen

(15) days from service of Chandler's true up report in which to request that Chandler file an amended tariff giving prospective effect to Chandler's actual average debt service requirements to take effect at the start of Chandler's next billing cycle. Chandler has agreed not to oppose such a request if made by the OUCC. Chandler shall file its amended tariff within fifteen (15) days of receiving such a request from the OUCC and in accordance with Ordering Paragraph 4.

If the actual average annual debt service reflected in the true up report is greater than those provided for in the authorized rates, Chandler may, at its option, within fifteen (15) days of filing the true up report, file an amended tariff giving prospective effect to the higher actual average annual debt service requirements to take effect at the start of Chandler's next billing cycle in accordance with Ordering Paragraph 4.

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

1. The Settlement is approved consistent with Finding Paragraph 9 hereof.
2. Chandler shall be and hereby is authorized to increase its rates and charges for water utility service in Step One across the board by 5.54% in order to increase annual operating revenues by \$141,015, so as to produce total annual operating revenues of \$2,709,892.
3. Chandler shall be and hereby is authorized to increase its rates and charges for water utility service in Step Two across the board by 12.48% in order to increase annual operating revenues by \$335,157, so as to produce total annual operating revenues of \$3,045,050.
4. Chandler shall file with the Commission's Water/Sewer Division a new schedule of rates and charges before placing into effect both rate increases authorized herein, which schedules, when approved by the Water/Sewer Division shall be effective and shall cancel all previously approved schedules of rates and charges.
5. Chandler shall be and hereby is authorized to issue waterworks revenue bonds as provided in Finding Paragraph 9 hereof.
6. Chandler shall pay the following itemized charges within twenty (20) days of the date of this Order into the Treasury of the State of Indiana, through the Secretary of the Commission:

Commission Charges	\$1,854.25
Legal Advertising Charges	\$ 118.70
OUCC Charges	<u>\$4,275.96</u>
Total:	\$6,248.91

7. In accordance with Ind. Code § 8-1-2-85, Chandler shall pay to the Secretary of the Commission twenty-five cents (\$0.25) for every one hundred dollars (\$100) of financing proceeds received. This payment shall be made within thirty (30) days of the receipt of the financing proceeds authorized herein.
8. Chandler shall file the true up report as provided in Finding Paragraph 10 hereof.
9. This Order shall become effective on and after the date of its approval.

HARDY, ATTERHOLT, GOLC, LANDIS AND ZIEGNER CONCUR:

APPROVED: JAN 06 2010

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



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

FILED
September 08, 2009
INDIANA UTILITY
REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION)
OF THE TOWN OF CHANDLER, INDIANA,)
FOR APPROVAL OF A NEW SCHEDULE OF)
RATES AND CHARGES FOR WATER)
UTILITY SERVICE AND FOR AUTHORITY)
TO ISSUE REVENUE BONDS TO PROVIDE) CAUSE NO. 43658
FUNDS FOR THE COSTS OF THE)
ACQUISITION AND INSTALLATION OF)
IMPROVEMENTS AND EXTENSIONS TO)
THE WATERWORKS OF THE TOWN)

JOINT STIPULATION AND SETTLEMENT AGREEMENT

On March 18, 2009, the Town of Chandler, Indiana (“Chandler”) filed with the Commission its Petition initiating this Cause. On May 15, 2009, Chandler filed its Case-in-Chief in this Cause. On August 11, 2009, the Office of Utility Consumer Counselor (the “OUCC”) filed its Case-in-Chief. Based upon arms-length negotiations between Chandler and the OUCC (Chandler and the OUCC, collectively the “Parties”), the Parties have reached an agreement with respect to all of the issues before the Indiana Utility Regulatory Commission (the “Commission”) in this Cause. The Parties therefore stipulate and agree for purposes of resolving all of the issues in this Cause, to the terms and conditions set forth in this Joint Stipulation and Settlement Agreement (the “Settlement”).

1. **Stipulated Rates and Revenues.** The Parties stipulate and agree that Chandler’s test year operating revenues were \$2,537,206, as depicted on Schedule 4 to Public’s Exhibit No. 1. The Parties stipulate and agree that Chandler’s current rates and charges are inadequate and that Chandler’s rates and charges should be increased immediately upon the issuance of a Commission Order on an across-the-board basis by 5.54% so as to produce \$141,015 in additional annual operating revenue. The Parties further stipulate and agree that Chandler should be authorized to further increase its rates and charges twelve (12) months after closing on the Bonds (as defined in Section 3 below) by an additional 12.48% on an across-the-board basis to

produce and additional \$335,157 in annual operating revenue. After adjustment (including the issuance of the Bonds), the Parties stipulate and agree that Chandler's pro forma test year operating revenues will be \$2,709,982 for step one and \$3,045,050 for step two. The Parties further stipulate and agree that Chandler's revenue requirements for the step one and step two rate increases are depicted on Schedule 1 to Public's Exhibit No. 1. The Parties stipulate and agree that the rate increases provided herein are just and reasonable and should be approved.

2. **Phased Rates.** The Parties agree that the implementation of Chandler's rate increase in two phases is reasonable. Ind. Code 8-1.5-3-8(h) provides that the Commission shall grant a request by a municipally owned utility that an increase in rates and charges not be effective until after the occurrence of a future event, if the municipal legislative body so requests. Chandler has presented testimony and exhibits in this Cause to support phased rates, and the Parties hereby agree to phased rates.

3. **Stipulated Financing Matters; True-Up.** The Parties stipulate and agree that Chandler shall be authorized to issue water utility revenue bonds (the "Bonds") in an amount not to exceed the estimated \$5.38 Million principal amount as described in the testimony of Chandler's witness Scott A. Miller. The Parties agree that the actual principal amount of the Bonds, the interest rate at which the Bonds will be sold and the actual cost of annual debt service associated with the project will not be known precisely until after Chandler has closed on its Bonds. Since the figures are estimates rather than actual amounts, the Parties agree that Chandler may be required to true-up those amounts after Chandler closes on its financing. Specifically, within thirty (30) days of closing, the Parties agree that Chandler should file a true-up report with the Commission and serve all parties of record. The true-up report should include the same methodologies reflected in the evidence in this proceeding and state the following: the actual principal amount borrowed, the interest rate, the term of the Bonds, the actual average annual debt service and debt service requirements, the actual annual debt service reserve requirement and the impact that any difference would have on Chandler's rates.

4. **Other Stipulations and Agreements.** In Cause No. 42856, Chandler agreed to reduce the scope of its financing request in that Cause to request specific components of an overall

capital improvements plan. In this Cause, the Parties agree that Chandler requested further specific components of that overall capital improvements plan. The OUCC understands that the bond funding in Cause No. 42856 and in this Cause are not intended to cover the complete costs associated with constructing all of the actual projects outlined in the overall capital improvements plan. Nevertheless, the OUCC believes the projects outlined in the overall capital improvements plan are reasonably necessary. Therefore, the OUCC agrees that, assuming there are no significant changes in circumstances surrounding the reasonableness or need for these projects at the time of Chandler's next rate and financing proceeding, the OUCC agrees to support a reasonable request for funding the next phase of the overall capital improvements plan.

5. **Submission of Evidence.** The Parties stipulate to the admission into evidence in this Cause of the testimony previously filed (the OUCC's Case-in-Chief and Chandler's Case-in-Chief) and the Settlement Testimony of Scott A. Miller on behalf of Chandler. Further, each Party waives cross-examination of the other's witnesses with respect to such testimony. The Parties shall not offer any further testimony or evidence in this proceeding, other than this Settlement and the above-identified testimony and exhibits. If the Commission should request additional evidence to support the Settlement, the Parties shall cooperate to provide such requested additional evidence.

6. **Proposed Final Order.** The Parties stipulate and agree to the issuance by the Commission of the proposed order (the "Proposed Order") attached hereto and made a part hereof as Exhibit A. The Parties stipulate and agree that the terms of this Settlement and the findings and ordering paragraphs of the Proposed Order represent a fair, reasonable, and just resolution of all the issues in this Cause, provided they are approved by the Commission in their entirety without material change. All the terms and agreements contained in the Proposed Order are incorporated herein by reference and are accepted by each of the Parties as if fully set forth herein.

7. **Sufficiency of Evidence.** The Parties stipulate and agree that the evidentiary material identified immediately above constitutes a sufficient evidentiary basis for the issuance of the

Proposed Order as a final order by the Commission adopting the terms of this Settlement, and granting the relief as requested herein by Chandler and agreed to by the OUCC.

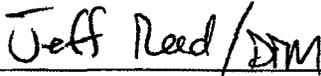
8. **Commission Alteration of Agreement.** The concurrence of the Parties with the terms of this Settlement is expressly predicated upon the Commission's approval of this Settlement. If the Commission alters this Settlement in any material way, unless that alteration is unanimously and explicitly consented to by the Parties, this Settlement shall be deemed withdrawn.

9. **Authorization.** The undersigned represent that they are fully authorized to execute this Settlement on behalf of their respective clients or parties, who will be bound thereby.

10. **Non-Precedential Nature of Settlement.** The Parties stipulate and agree that this Settlement and the Proposed Order shall not be cited as precedent against the OUCC or Chandler in any subsequent proceeding or deemed an admission by any party in any other proceeding, except as necessary to enforce the terms of this Settlement or the final order to be issued in this Cause before the Commission or any court of competent jurisdiction on these particular issues and in this particular matter. This Settlement is solely the result of compromise in the settlement process and, as provided herein, is without prejudice to and shall not constitute a waiver of any position that any of the Parties may take with respect to any or all of the items resolved herein in any future regulatory or other proceeding, and, failing approval by the Commission, shall not be admissible in any subsequent proceeding.

11. **Counterparts.** This Settlement may be executed in one or more counterparts (or upon separate signature pages bound together into one or more counterparts), all of which taken together shall constitute one agreement.

Respectfully submitted,



Jeff Reed (11651-49)

Office of the Utility Consumer Counselor
National City Center, Suite 1500 South
Indianapolis, IN 46204

1423503



David T. McGimpsey (21015-49)
Casey M. Holsapple (27165-49)

BINGHAM MCHALE LLP
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204

Attorney for Petitioner,
Town of Chandler, Indiana