

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE INDIANA UTILITY)
REGULATORY COMMISSION'S INVESTIGATION)
OF MATTERS RELATED TO THE DISCONNECTION)
OF CUSTOMERS BY INDIANA AMERICAN WATER,)
INC., FOR NON-PAYMENT OF COMBINED SEWER)
AND TRASH CHARGES PURSUANT TO CONTRACT)
WITH THE GARY SANITARY DISTRICT, PURSUANT)
TO INDIANA CODE §§ 8-1-2-1(A), 8-1-2-58, 8-1-2-69, 8-)
1-2-113, ET SEQ. AND I.C. § 36-9-25-11.5.)

CAUSE NO. 43668

EMERGENCY ORDER
OPENING INVESTIGATION

APPROVED: APR 15 2009

BY THE COMMISSION:

Jeffrey L. Golc, Commissioner
Lorraine Hitz-Bradley, Administrative Law Judge

Based on documentation received by the Indiana Utility Regulatory Commission ("Commission"), the Commission finds it appropriate to investigate the disconnection of customers for non-payment of combined sewer and trash services by Indiana American Water, Inc., ("Indiana American") pursuant to its contract with the Gary Sanitary District ("GSD").

1. **Commission Jurisdiction and Authority to Review.** Indiana American is engaged in the provision of water utility service to the public in numerous communities throughout the State of Indiana, including in and around the City of Gary, Indiana. As such, Indiana American is a public utility as that term is defined in Ind. Code § 8-1-2-1. Indiana American has contracted with GSD concerning the disconnection of customers for non-payment of sewer fees pursuant to I.C. § 36-9-25-11.5.

Ind. Code § 8-1-2-58 provides the Commission with broad authority to investigate public utilities:

Whenever the Commission shall believe...that an investigation of any matters relating to any public utility should for any reason be made, it may, on its own motion, summarily investigate the same, with or without notice.

Further, I.C. § 8-1-2-59 provides the Commission with authority to conduct a formal hearing of a matter it investigates. After such an investigation, the Commission may make such an order as to "fix just and reasonable measurements, regulations, acts, practices, or service to be furnished, imposed, observed, and followed in the future[.]" I.C. § 8-1-2-69.

The Commission also may, when it considers it necessary to prevent injury to the business or interests of the people of the State of Indiana, issue an order that temporarily alters or amends existing rates, service, practices, schedules and orders affecting any public utility in the

State pursuant to I.C. § 8-1-2-113. Accordingly, this Commission has jurisdiction over Indiana American and the subject matter of this proceeding.

2. **Background.** The Commission received information regarding charges imposed by the GSD for trash and sewer service, and subsequent disconnection of customers by Indiana American for non-payment of those charges. GSD issues a single bill charging consumers for both trash collection and sanitary sewer services, which states prominently that "PAYMENTS ARE APPLIED FIRST TO TRASH COLLECTION FEE AND THEN SANITARY FEE." GSD has contracted with Indiana American, pursuant to I.C. § 36-9-25-11.5, for the disconnection of customers who are delinquent on their sewer bills. Indiana American does not perform the billing function for GSD; Indiana American receives a list of customers to be disconnected from GSD without reference to the service for which payment is delinquent. As a consequence, there is a concern that Indiana American performs customer shut-off based upon any non-payment to GSD, regardless of whether that non-payment is limited to sewer fees.

3. **Inception of Investigation.** Where a municipality has contracted with another utility to perform disconnections, the statute allows for disconnection of a customer upon non-payment of sewer charges, but does not authorize disconnection for non-payment of other, unrelated charges. I.C. § 36-9-25-11.5. The Commission must therefore ensure that any disconnection activity is limited to disconnection for non-payment of sewer services under I.C. § 36-9-25-11.5.

The Commission hereby finds it appropriate to initiate an investigation to review the potential disconnection by Indiana American of GSD sewer customers for non-payment of trash fees. Due to the potential for "injury to the business or interests of the people", the Commission hereby invokes I.C. § 8-1-2-113 to temporarily "alter [or] amend" actions by Indiana American, and orders Indiana American to cease the disconnection of GSD sewer customers until further inquiry by, and Order of, the Commission.

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

1. An investigation into matters related to the disconnection of customers of Gary Sanitary District by Indiana American Water, Inc. is hereby commenced.
2. Indiana American Water shall immediately cease disconnection of Gary Sanitary District customers until further Order of this Commission.
3. A Prehearing Conference is hereby scheduled in this Cause for May 4, 2009, at 10:00 a.m. EDT in Room 222 of the National City Center, 101 West Washington Street, Indianapolis, Indiana.
4. This Order constitutes Notice of Matters under Investigation pursuant to I.C. § 8-1-2-59.

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

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

APPROVED: APR 15 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**