

ORIGINAL


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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF INDIANA-AMERICAN)
WATER COMPANY, INC. FOR)
AUTHORITY TO INCREASE ITS RATES)
AND CHARGES FOR WATER AND)
SEWER UTILITY SERVICE, FOR)
APPROVAL OF NEW SCHEDULES OF)
RATES AND CHARGES APPLICABLE)
THERETO, FOR APPROVAL OF)
CHANGES TO RULES AND)
REGULATIONS APPLICABLE TO SUCH)
SERVICE, AND FOR AUTHORIZATION)
TO DEFER IN A PENSION/OPEB)
BALANCING ACCOUNT OVER- AND)
UNDER-RECOVERIES FOR PASS)
THROUGH TO CUSTOMERS)

CAUSE NO. 43680

PREHEARING CONFERENCE ORDER

APPROVED: JUN 03 2009

BY THE COMMISSION:

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

On April 30, 2009 Indiana-American Water Company, Inc. ("Petitioner") filed its Petition and Notice of Intent to File in Accordance with Minimum Standard Filing Requirements ("MSFRs"),¹ for authority to increase its rates and charges for water and sewer utility service, for approval of new schedules of rates and charges applicable thereto, for approval of changes to rules and regulations applicable to such service, and for authority to defer in a Pension/Other Post Employment Benefits Balancing Account over- and under-recoveries for pass through to customers. Since Petitioner filed its petition, case-in-chief, and supporting workpapers prior to the promulgation of new regulations concerning the MSFRs, the prior version of the MSFRs shall continue to apply to this Cause. References to the regulations promulgating the MSFRs herein are to the version of those regulations that was in effect when Petitioner filed its case-in-chief and supporting workpapers.

In accordance with 170 IAC 1-1.1-15 and pursuant to proper notice given as provided by law, a Prehearing Conference and Preliminary Hearing ("Prehearing Conference") was commenced on May 27, 2009 at 9:30 A.M. EST in Room 224 of the National City Center, 101 W. Washington Street, Indianapolis, Indiana. Proofs of publication of notices of the Prehearing Conference were incorporated into the record and placed in the official files of the Commission. Petitioner, the Office of Utility Consumer Counselor ("Public") and Intervener Town of Schererville participated in the Prehearing Conference.

¹ See 170 IAC 1-5 *et seq.*

Prior to the opening of the record in this Cause and with the agreement and consent of all parties at the Prehearing Conference, an informal discussion was held regarding procedural, scheduling and certain other matters pertinent to this Cause.

Pursuant to the matters presented to the Commission at the Prehearing Conference and the agreement of the parties, the Commission now enters the following findings and order, which should become a part of the record in this proceeding:

1. **Test Year and Accounting Method.** The test year to be used for determining Petitioner's actual and *pro forma* operating revenues, expenses and operating income under present and proposed rates should be the twelve months ended November 30, 2008, adjusted for changes that are fixed, known and measurable for ratemaking purposes and that will occur within twelve months following the end of the test year. The Public and Interveners may propose in their cases-in-chief to extend the adjustment period through December 31, 2009. If either does so, then Petitioner on rebuttal may also extend the adjustment period through December 31, 2009. Petitioner has agreed for purposes of its next rate case to propose a test year which ends on a calendar quarter end (March 31, June 30, September 30, or December 31).

2. **Cut-Off Date.** The general rate base cutoff should reflect used and useful property at the end of the test year. The cost of plant, to the extent not offset by growth in the depreciation reserve, may be updated as provided in 170 IAC 1-5-5(3)(B). Petitioner has identified in its Petition certain "major projects": (1) the West Lafayette Improvements; (2) the London Road Improvements; (3) the Northwest Cleveland Street Transmission Main and Pump Station Improvements; and (4) the Northwest Indiana Ogden Dunes Backwash Recycle Improvements. The cutoff for each of these major projects shall be based on the latest information available at the time of the final hearing, provided that said project satisfies the criteria set forth in 170 IAC 1-5-5(4).

3. **Cost of Capital.** Economic and financial data used in determining Petitioner's cost of capital should not be restricted as to time or method of adjustment used for financial and accounting exhibits. Petitioner's capital structure may be based on the latest information available at the time of the final hearing.

4. **Petitioner's Prefiling Date.** Petitioner filed with the Commission and served on the Public the prepared testimony and exhibits constituting its case-in-chief on May 4, 2009.

5. **Working Papers.** Petitioner submitted to the Commission two sets of the working papers required by the MSFRs on May 6, 2009. At the same time, Petitioner served a copy of such working papers on the Public. The Petitioner submitted supplemental workpapers on May 20, 2009. Petitioner should provide a copy to any Intervenor requesting a copy thereof in writing.

6. **Hearing on Petitioner's Case-In-Chief.** An evidentiary hearing in this Cause should commence on September 1, 2009 and continue as necessary through September 3, 2009 at 9:30 A.M. EDT, in Room 222 of the National City Center, 101 W. Washington Street, Indianapolis, Indiana, at which time the Petitioner's case-in-chief should be presented and its witnesses cross-examined. Witness Moul will testify on September 3, 2009. At such hearing Petitioner may submit an update of the cost of plant, to the extent not offset by growth in the depreciation reserve, as permitted by 170 IAC 1-5-5(3)(B). Petitioner should serve on the parties of record copies of any written exhibits

regarding such update at least ten (10) business days before the hearing. As necessary, the hearing will continue from day to day thereafter.

7. **Settlement Hearing.** If the parties have a settlement agreement to present by that time, a settlement hearing shall be conducted in this Cause on October 21, 2009, at 9:30 A.M., EST, in Room 222 of the National City Center, 101 W. Washington Street, Indianapolis, Indiana. Evidence in support of any such settlement agreement shall be filed with the Commission and served on the parties at least five (5) business days before the settlement hearing. In the event a settlement of all of the parties or to which no party objects is presented at the settlement hearing which covers any or all issues in this Cause and which is supported by substantial evidence, the Commission may proceed to issue an order or orders resolving the settled issues without the need for further evidentiary hearings concerning those issues. The Commission may continue the settlement hearing to another date if the Commission believes a continuance would facilitate the prospects for settlement. Settlements may also be presented to the Commission at either of the evidentiary hearings scheduled pursuant to Paragraph 6 or 11 hereof.

8. **Public's and Intervenors' Prefiling Date.** Public and all Intervenors should prefile with the Commission and serve on all parties of record the prepared testimony and exhibits constituting their respective cases-in-chief on or before October 23, 2009. By October 27, 2009, Public and all Intervenors shall provide to the Commission two sets of their respective working papers and other supporting materials normally generated in association with the production of their technical evidence. At the same time, a copy of such documents should be served on Petitioner and on any other party filing testimony.

9. **Cross-Answering Testimony Prefiling.** The Public and Intervenors should prefile with the Commission and serve on all parties of record on or before November 13, 2009 any cross-answering testimony responding to testimony and exhibits prefiled by a party other than the Petitioner.

10. **Rebuttal Prefiling.** Petitioner should prefile with the Commission and serve on all parties of record its rebuttal testimony and exhibits on or before November 20, 2009.

11. **Hearing on Public's and Intervenors' Cases, Cross-Answering Cases And Petitioner's Rebuttal.** The evidentiary hearing in this Cause should resume on December 15, 16, (and 17, if necessary), 2009 at 9:30 A.M., EST, in Room 222 of the National City Center, 101 W. Washington Street, Indianapolis, Indiana and continue, as necessary, from day to day thereafter. At such hearing, Public and all Intervenors should present their respective cases-in-chief and their witnesses should be cross-examined. Thereafter, Public and any Intervenor should present their cross-answering cases, if any, and their witnesses should be cross-examined. Thereafter, Petitioner should offer its rebuttal evidence and its rebuttal witnesses should be made available for cross-examination.

12. **Field Hearing.** A public field hearing shall be held on September 15, 2009 in the City of Gary, the largest municipality served by Petitioner, at a time and location to be determined by the Commission. Public field hearings shall also be held at times and locations to be determined by the Commission in the City of Muncie and in the City of Jeffersonville.

13. **Witness Order.** Parties shall submit their intended order of witnesses to the Commission and the parties in writing at least two business days in advance of each hearing.

14. **Post-Hearing Submissions and Order.** The following post-hearing schedule shall apply:

<u>Description</u>	<u>Due Date</u>
Petitioner's Proposed Order and Post-Hearing Brief, if any	January 8, 2010
Public's and Interveners' Exceptions, Proposed Orders and/or Post-Hearing Briefs (the final proposed orders)	January 29, 2010
Cross-Responses (if any)	February 9, 2010
Petitioner's Reply	February 12, 2010
Deadline for Commission Order	April 29, 2010

Any petition for rehearing or reconsideration not granted within sixty (60) days of filing shall be deemed denied.

15. **Objection to Prefiled Testimony and Exhibits.** Any objections to the admissibility of prefiled testimony or exhibits should be filed with the Commission and served on all parties of record no less than two (2) business days prior to the date scheduled for commencement of the hearing at which the testimony or exhibit will be offered into the record.

16. **Copies and Corrections.** With the exception of working papers, an original and five (5) copies of all prepared testimony and exhibits should be filed with the Commission. Parties should provide copies of any exhibits or materials entered into evidence during the proceeding that were not prefiled to the assigned staff advisors as well as the presiding Commissioner and administrative law judge. Although the Commission's rules require that original copies be one-sided, it is the Commission's preference that duplicate copies use both sides of the paper. Any corrections to prefiled testimony should be made as soon as possible after discovery of the need to make such corrections.

Parties may also elect to file documents with the Commission using the Commission's Electronic Filing System in lieu of filing paper documents. Pursuant to the terms and conditions of the Electronic Filing System, documents filed electronically are deemed filed the date they are submitted, subject to verification and acceptance by the Commission, and will receive an electronic file stamp. For filings greater than thirty (30) pages in length, a party shall file with the Commission an original and one (1) paper copy within two (2) business days of the electronic filing. When supplying such copies, the party must provide a copy of the email reflecting the electronic filing was accepted by the Commission.

17. **Sworn Testimony.** Any witness testimony to be offered into the record of this proceeding should be made under oath or affirmation. In accordance with 170 IAC 1-1.1-18(h), if the prefiled testimony of a witness is to be offered into evidence at the evidentiary hearing, and the witness sponsoring the prefiled testimony is not required to, and does not, attend the evidentiary hearing, the

prefiled testimony should be accompanied by the witness' sworn affidavit or written verification at the time the evidence is offered into the record.

18. **Stipulations.** Prior to the evidentiary hearing, the parties are encouraged to consider whether they will stipulate to: (1) the qualifications of expert witnesses; (2) the admissibility of prefiled testimony and exhibits; and (3) the waiver of cross-examination of witnesses. The parties may consult as to whether any prefiled evidence can result in the narrowing of issues presented for determination by the Commission.

19. **Intervention.** Pursuant to 170 IAC 1-1.1-11, any party permitted to become an Intervenor in this Cause shall be bound by the record as it stands at the time its Petition to Intervene is granted.

20. **Discovery.** Discovery should be conducted on an informal basis and available for all parties. Any party receiving a discovery request should respond to or object to the discovery request within ten (10) calendar days of receipt. However, after the OUCC and any Interveners have filed their respective cases-in-chief, a discovery request shall be responded to within five (5) business days. Objections not made within the applicable time period shall be deemed waived unless an extension is agreed upon or requested from the Commission. If more time is needed to respond to a discovery request, the parties will attempt in good faith to reach agreement upon the amount of time needed. If the parties are unable to agree, the party desiring more time must seek and obtain an extension from the Commission for good cause shown. Any discovery request served after noon on a Friday will be treated as having been served on the next business day.

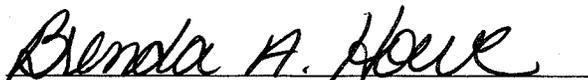
IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The determinations of the Prehearing Conference set forth in Findings 1 through 20 of this Order are made a part of the record in this Cause and shall be binding on all parties of record during the proceedings in this Cause.
2. This Order shall be effective on and after the date of its approval.

GOLC, LANDIS, AND ZIEGNER CONCUR; HARDY ABSENT:

APPROVED: JUN 03 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