

ORIGINAL  
STATE OF INDIANA



**INDIANA UTILITY REGULATORY COMMISSION**

**PETITION OF THE NORTH LAWRENCE )  
WATER AUTHORITY OF LAWRENCE ) CAUSE NO. 43716  
COUNTY, INDIANA FOR AUTHORITY TO )  
ISSUE NOTES UNDER INDENTURE AND )  
FOR APPROVAL OF A NEW SCHEDULE ) APPROVED:  
OF RATES AND CHARGES )**

AUG 11 2010

**BY THE COMMISSION:**

**James D. Atterholt, Commissioner  
Angela Rapp Weber, Administrative Law Judge**

On June 18, 2009, the North Lawrence Water Authority (“Petitioner” or “North Lawrence”) initiated this Cause by filing a Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) requesting authority to adjust its rates and charges for water services and for authority to issue long-term debt in the form of notes under indenture. Petitioner prefiled its case-in-chief on November 6, 2009. Petitioner’s case-in-chief consisted of the Verified Testimony of Brian Bullock, a Registered Engineer with Midwestern Engineering; the Preliminary Engineering Report for North Lawrence (“PER”) prepared by Midwestern Engineering; the Verified Testimony and exhibits of Steven K. Brock, a Certified Public Accountant; and the Verified Testimony of Phil Hawkins, Petitioner’s General Manager.

On February 11, 2010, the Office of Utility Consumer Counselor (“OUCC”) filed an unopposed motion for continuance and requested a short extension of the time to file its prefiled case-in-chief. Pursuant to a Docket Entry issued by the Presiding Officers on February 17, 2010, the OUCC filed its case-in-chief on March 16, 2010. The OUCC’s case-in-chief consisted of the 1) Testimony of Charles Patrick; 2) Testimony of Harold Rees; 3) Testimony of Ed Kaufman; and 4) workpapers of Charles Patrick. Petitioner’s Rebuttal filing was due to be filed with the Commission on or before April 5, 2010. Because a settlement was reached between the OUCC and the Petitioner, no rebuttal filing was made.

On May 24, 2010, Petitioner and the OUCC (“Settling Parties”) filed a Stipulation and Settlement Agreement. On May 25, 2010, the Settling Parties filed a Revised Stipulation and Settlement Agreement (“Settlement Agreement”), which superseded and replaced the Stipulation and Settlement Agreement filed on May 24, 2010. In support of the Settlement Agreement, Petitioner filed: 1) the Verified Settlement Testimony of Steven K. Brock, a Certified Public Accountant; 2) the proposed schedule of revenues and rate increase; 3) the Verified Supplemental Settlement Testimony of Steven K. Brock, filed to correct an error regarding the tank-painting schedule; and 4) Petitioner’s settlement pro forma net operating income statements and related schedules. On May 27, 2010, the Commission requested certain information from the Settling Parties, to which the OUCC responded on June 7, 2010 (through the responses of Charles Patrick) and the Petitioner responded on June 3, 2010 (through the responses of Brian Bullock and Phil Hawkins).

Pursuant to legal notice duly published in accordance with Indiana law, the Commission convened a public Evidentiary Hearing on June 8, 2010 at 10:30 a.m. in Hearing Room 222, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the OUCC appeared by counsel and presented

evidence at the Hearing. No members of the general public attended the Hearing. At the Evidentiary Hearing, the Settling Parties' respective testimony and exhibits were received into evidence without objection.

Based upon applicable law and the evidence of record in this Cause, the Commission now finds that:

**1. Notice and Jurisdiction.** Notice of the Prehearing Conference and the Evidentiary Hearing held in this Cause was published in accordance with applicable law. Petitioner is a political subdivision of the State of Indiana pursuant to Indiana Code 13-18-16 *et seq.* According to Indiana Code 13-18-16-16(h), North Lawrence is subject to Indiana Code 8-1.5-3-8 for the purpose of setting rates and charges. Thus, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

**2. Petitioner's Characteristics.** The North Lawrence Water Corporation was formed in 1967 as a nonprofit utility to provide water service to customers in the western and northern areas of rural Lawrence County and southern Monroe County. Currently, North Lawrence provides service to approximately 4,300 water customers. North Lawrence owns three wells and a treatment plant in the White River Bottoms near Williams, Indiana. In 2002, North Lawrence Water Corporation was reconstituted as the North Lawrence Water Authority, a political subdivision, pursuant to the provisions of Indiana Code 13-18-16-16. In 2003, Petitioner completed the addition of two wells and a new treatment plant.

In addition to its five wells (2.88 MGD capacity) and the treatment plant (2.00 MGD capacity), North Lawrence has more than 200 miles of mains constructed predominantly with PVC or ductile iron pipe. The remainder of Petitioner's water system consists of nine water storage tanks (three elevated tanks and six standpipes) located throughout the service area, supported by six booster stations. North Lawrence has purchased three generators for back-up electric power, two of which have been installed.

**3. Test Year.** The test year used to prepare the financial information related to this Cause was the twelve months ending March 31, 2009. The financial data for the test year, when adjusted for changes as provided in the Prehearing Conference Order, fairly represents Petitioner's annual operations. The Commission concludes that such test year is a proper basis for fixing new rates for Petitioner and testing the effects thereof.

**4. Requested Relief.** Petitioner requested authority to issue long-term debt in the form of notes under indenture to finance capital improvement projects and for approval to increase its rates and charges. Petitioner's existing rates and charges were established by Final Order of this Commission on May 11, 2006 in Cause No. 42897.

**5. Petitioner's Proposed Capital Improvement Plan.** Mr. Bullock provided testimony describing Petitioner's proposed Capital Improvement Plan ("CIP"). Mr. Bullock explained that the CIP consists of adding 25,000 feet of twelve-inch reinforcement main from Booster Station No. 2 to the intersection of Cobb Lane and Springville Judah Road. Booster Station No. 2 has a capacity of 525 GPM or 756,000 GPM, and during the summer on a peak day it pumps 700,000 GPM or 93% of its capacity. Mr. Bullock stated that the size of the water main on the discharge side of the Booster Station No. 2 limits its pumping capacity. The installation of a twelve-inch reinforcement main will increase the pumping capacity of Booster Station No. 2 to 1,000 GPM or 1,440,000 GPD. The increase in pumping capacity, according to Mr. Bullock, will allow Booster Station No. 2 to continue

to fill the Springville storage tanks and therefore supply water to the eastern portion of North Lawrence's distribution system. Once Booster Station No. 2 is able to pump additional water, Petitioner will be able to purchase less water from the City of Bedford. The estimated cost for the proposed CIP is \$1,128,000. OUCC witness Harold Rees filed testimony discussing and ultimately recommending Commission approval of Petitioner's proposed \$1,128,000 CIP.

Petitioner sought authority to finance the CIP by issuing new debt in the form of notes under indenture. Petitioner's proposed notes would be interest only until January 1, 2012 with an annual debt service of \$28,877. Starting on January 1, 2010, North Lawrence's debt service payments would include principal and thus increase to approximately \$72,500. Petitioner also has existing debt, the annual debt service of which is \$472,897. OUCC witness Mr. Kaufman filed testimony stating that Petitioner's proposed debt issuance was reasonable. Although Mr. Kaufman agreed with the proposed debt, he raised concerns about the figures identified by Petitioner as its debt service reserve. Mr. Kaufman proposed \$545,188 to fully fund Petitioner's debt service reserve, which would be \$27,669 annually, assuming an interest rate of between .05% and 3.0%.

**6. Terms of Proposed Settlement Agreement.** On May 25, 2010, the Settling Parties filed a proposed Settlement Agreement for approval by this Commission. The proposed Settlement Agreement was supported by the Verified Testimony and Supplemental Settlement Testimony of Petitioner's witness Steven Brock, and it included additional accounting schedules reflecting the agreed changes to Petitioner's originally proposed revenue requirements. The following is a summary of the proposed Settlement Agreement and supporting testimony:

*A. Capital Improvement Projects.* The Settling Parties agreed that the Commission should accept and approve Petitioner's CIP identified above.

*B. Modifications to Engineering Matters.* Petitioner agreed to adopt the following OUCC engineering recommendations:

1. Extensions and Replacements. The OUCC proposed that Petitioner engage a consultant to help develop a five-year plan for extensions and replacements ("E&R"). As part of the Settling Parties' negotiations, they agreed that Petitioner's E&R shall be funded at \$408,396 per year, which represents Petitioner's historical annual E&R expenditures.

2. Energy Audit. Petitioner agreed to perform an energy audit of its facilities, including lighting, heating, and air conditioning systems, within 180 days of the issuance of an Order in this Cause, with a summary report of the findings and proposed follow-up actions provided to the Commission and OUCC. Per the Settlement Agreement, the OUCC agreed that \$1,333 in costs for doing so should be included in Petitioner's annual revenue requirement for purposes of the rate increase requested herein.

3. Acceleration of Meter Replacements. Petitioner agreed to accelerate its proposed replacement rate for existing manual-read meters by touch-read units from approximately 100 per year to 200 per year, to be supported through E&R funds.

4. Tank Painting. Petitioner agreed to modify its tank painting schedule to follow the schedule recommended by the OUCC and depicted on page three of the Settlement Agreement. Tank painting will be funded over a fifteen-year period at \$72,000 per year for a total of \$1,080,000. Further, Petitioner agreed to establish a reserve account for tank

painting and agreed to deposit \$6,000 (1/12th) of the tank painting expenses monthly. Petitioner also agreed to provide quarterly reports to the Commission about the tank painting fund.

C. Funding/Financing. The Settling Parties agreed that the estimated funding for Petitioner's CIP will be financed by a loan issued by the State Revolving Fund ("SRF") as described above. The Settling Parties also agreed to future true-up reporting and tariff filing requirements.

D. Other Accounting and Finance Issues. The Settling Parties also agreed to the following regarding accounting and finance issues:

1. Operating Expenses. Petitioner agreed to accept the OUCC's net proposed increase of \$71,171 to Petitioner's operating expenses. The OUCC's \$71,171 net increase was the result of adjustments made to the salaries/wages of officers, pension expenses, water reduction, chemical costs, electricity cost reduction, vehicle/general liability insurance, capital and non-recurring items, bad debts, postage, IDEM fees, tank painting, payroll taxes, depreciation, rate case amortization, and purchased water. The OUCC agreed to accept the Petitioner's proposed net increase of \$1,333 to its operating expenses to include the cost of the energy audit requested by the OUCC. The total agreed net increase to Petitioner's operating expenses negotiated and agreed to by the Settling Parties was \$72,504.

2. Taxes. Petitioner agreed to accept the OUCC's downward adjustment of \$8,323 to taxes other than income, which resulted from the OUCC's proposed downward revisions to the Petitioner's pro forma salaries and wages expense.

3. E&R. Petitioner agreed to accept the OUCC's downward adjustment of \$108,403 for E&R to correct the forty-month, rather than fifty-two, period since the last rate Order, which when combined with upward adjustment of \$3,648 for test year capital expenditures, resulted in a net downward adjustment of \$104,755.

4. Working Capital. Petitioner agreed to accept the OUCC's proposed downward adjustment of \$10,921, which when amortized over two years, resulted in an increased revenue requirement of \$41,300.

5. Debt Service Reserve. Petitioner agreed to the OUCC's downward adjustment of \$35,224 to its debt service reserve.

6. Line of Credit. Petitioner agreed to the OUCC's deletion of \$73,978 for the amounts included in Petitioner's proposed revenue requirement for payment of the line of credit because the inclusion of this amount would constitute retroactive ratemaking.

7. Proposed Debt Service. Petitioner agreed to the OUCC's downward adjustment of \$2,403 to its proposed debt service.

8. Proposed Debt Service Reserve. Petitioner agreed to the OUCC's deletion of \$14,982 for the amounts included in Petitioner's proposed revenue requirement for proposed debt service reserve.

9. Customer Deposit Build-Up. Petitioner agreed to the OUCC's deletion of \$47,395 for the amounts included in Petitioner's proposed revenue requirement for return on the plant (Build-Up of Customer Deposit Account) because the inclusion of this amount would constitute retroactive ratemaking.

10. Interest Income. The Settling Parties agreed to reduce the \$587 Petitioner included for test year interest income to zero. Given Petitioner's shortfall in funds, Petitioner did not receive interest on funds that were not invested.

11. Other Income. The Settling Parties agreed to reduce the \$2,481 Petitioner included for test year other income to zero. The Settling Parties agreed that given Petitioner's shortfall in funds, Petitioner did not receive other income.

12. Commission Fees. Petitioner agreed to the OUCC's downward adjustment of \$1,182 to the amounts included as Commission (or IURC) Fees in its revenue requirement, in accordance with the .1073599% percentage fee levee.

*E. Revenue Requirement and Rate Increase*. The Settling Parties agreed that Petitioner's additional required revenues, in the amount of \$191,243, warranted a 10.0% across-the-board rate increase. Although Petitioner originally asked for a phased-in rate increase (in two phases), as part negotiations, Petitioner agreed to a single across-the-board rate increase. The Settling Parties attached to their Settlement Testimony Exhibit SKB-S1, the accounting schedules that reflected the agreed-upon revenue requirement, as well as the agreed-upon rates and charges for Petitioner.

*F. True-Up Requirements*. After Petitioner closes on the SRF Loan, it will "true-up" any differences between projected and actual project costs or projected and actual debt service and debt service reserve requirements, as well as other revenue requirements, such as payment in lieu of taxes and depreciation. Under the proposed Settlement Agreement, Petitioner's initial true-up report will be filed with the Commission, and a copy served on the OUCC, within thirty days of the closing date of the loan. The true-up report will state the actual interest rate and principal amount borrowed, along with an updated amortization schedule. The Settling Parties agree that North Lawrence's revenue requirement and rates also will also be trued-up at that time to reflect actual debt service.

*G. Other Reporting Requirements*. In consideration of the OUCC's agreement to the items above, Petitioner agreed to meet the following additional reporting requirements

1) Tank Painting Fund. Petitioner agreed to provide quarterly reports to the Commission regarding the tank painting fund, which will provide the amounts deposited and a detailed description of any funds removed.

2) E&R Plan. Petitioner agreed to develop a formal E&R plan and provide the same to the Commission within six months after the date of the Order in this Cause. Further, Petitioner will attach each year's revised E&R plan to its Annual Report submitted to the Commission.

3) Line of Credit. Petitioner agreed to submit a quarterly report to the Commission showing the monthly payments and outstanding balance on its line of credit.

4) Cash Flow Forecast. Petitioner agreed to develop and maintain a rolling twelve-month cash flow forecast and provide it to Petitioner's Board of Directors each month. These forecasts shall be included in or attached to Petitioner's quarterly reports to the OUCC.

5) Underfunding of Debt Service Reserve. If Petitioner's debt service reserve becomes underfunded, Petitioner agreed to notify the OUCC and Commission and provide an explanation.

6) Debt Service Reserve Funds. Petitioner agreed to provide bank statements to the OUCC on a semi-annual basis demonstrating that it is making monthly deposits into its debt service reserve funds.

**7. Findings on Capital Improvement Projects and Proposed Notes Under Indenture.**

Indiana Code 8-1.5-2-19 requires Commission approval before a municipality may issue bonds, notes or other obligations. Petitioner requests Commission approval to issue \$1,128,000 in long-term notes under indenture with a term not to exceed twenty years through the Indiana SRF. Petitioner's evidence is that the note proceeds will be used to pay for the CIP described above. Based on the evidence of record, the Commission finds that Petitioner's capital improvement projects are reasonable and necessary to enable Petitioner to continue to render adequate and efficient water utility service to its customers. We also find that the proposed notes under indenture are a reasonable method of financing. The Commission therefore authorizes and approves Petitioner's request to issue waterworks revenue notes under indenture in an aggregate amount of \$1,128,000, subject to true-up.

**8. Findings on Agreed Annual Revenue Requirements.** Indiana Code 8-1.5-3-8 establishes the revenue requirement elements that this Commission must apply in determining just and reasonable rates for municipally-owned utilities, such as Petitioner's water utility. The Settling Parties have agreed on Petitioner's revenue requirements, which are reflected in Exhibit SKB-S1. Based on the evidence, we now make our findings on each revenue requirement element.

*A. Operation and Maintenance Expenses.* Petitioner and OUCC agreed that annual revenue requirement as shown on Exhibit SKB-S1 for operation and maintenance expenses is \$1,066,523. The Commission finds that such operation and maintenance expenses are reasonable and supported by the evidence.

*B. Debt Service.* Petitioner and the OUCC agreed to an annual debt service requirement of \$472,897. Petitioner and the OUCC agreed and we find that these amounts represent Petitioner's annual revenue requirement for debt service. The Commission finds these amounts to be reasonable and supported by the evidence.

*C. Working Capital Requirement.* Petitioner and the OUCC agreed to a working capital requirement of \$41,300. The Petitioner and the OUCC agreed and we find that these amounts represent Petitioner's annual revenue requirement for working capital. The Commission finds these amounts to be reasonable and supported by the evidence.

*D. Debt Service Reserve.* Petitioner and the OUCC agreed to an annual debt service reserve of \$27,670. The Petitioner and the OUCC have agreed and we find that these amounts represent Petitioner's annual revenue requirement for debt service reserve. We find these amounts to be reasonable and supported by the evidence.

*E. E&R (Depreciation).* Petitioner and the OUCC agreed that Petitioner’s revenue requirement for E&R is in the amount of \$408,396. We find these amounts to be reasonable and supported by the evidence.

*F. Interest Income.* Petitioner and the OUCC agreed that Petitioner’s interest income, which would ordinarily offset the amount of Petitioner’s other revenues, is in the amount of \$0. The Commission finds this amount to be reasonable and supported by the evidence.

*G. Other Operating Revenue.* Petitioner and the OUCC agreed that Petitioner’s revenue requirement should be offset by the amount of Petitioner’s other operating revenue in the amount of \$11,385. We find this amount to be reasonable and supported by the evidence.

*H. Net Annual Revenue Requirements.* Based upon our findings above, we find that Petitioner’s annual net revenue requirements are \$2,114,908, as detailed below:

Operation and Maintenance Expenses	\$1,066,523
Taxes other than for Income	\$25,614
Debt Service	
Outstanding Debt	\$472,897
Proposed 2010 Notes	\$72,508
Working Capital Requirement	\$41,300
Debt Service Reserve	\$27,670
Extensions & Replacements (Depreciation)	<u>\$408,396</u>
Total Revenue Requirement	\$2,114,908
Less:	
Interest Income	(\$0)
Penalties	(\$0)
Other Operating Revenue	<u>(\$11,385)</u>
Net Revenue Requirements	\$2,103,523
Total Annual Revenues:	(\$1,912,484)
Plus Additional IURC Fees	<u>\$204</u>
Total Annual Revenues Required: (including utility receipts tax)	<u>\$191,243</u>
Recommended Percentage Increase	<u>10.00%</u>

Based on the evidence introduced into the record, The Commission finds that North Lawrence’s current rates and charges are inadequate to meet its annual revenue requirement. We find that to meet its current revenue requirements, Petitioner requires an overall 10.00%, or \$191,243. Further, the Commission finds these new annual revenue requirements to be nondiscriminatory, reasonable, and just.

**9. Single-Phase Rates.** In the Joint Stipulation and Settlement Agreement, the Settling Parties agreed that the implementation of Petitioner’s rate increase in a single phase was reasonable. Based on the evidence presented, the Commission finds a single rate increase to be reasonable and in the public interest.

**10. True-Up Requirements.** The actual amount of the notes, the interest rate at which the notes will be sold, and the cost of annual debt service will not be known precisely until Petitioner sells the notes required to fund the CIP. Since the figures used in the debt service and debt service reserve

calculations described in previous paragraphs are estimates rather than actual amounts, Petitioner agreed to true-up those amounts after closing on its SRF loan.

The Commission finds that Petitioner shall, within thirty days of closing on the 2010 SRF loan, file a true-up report with the Commission and serve a copy on the OUCC. The true-up report shall include the actual principal amount borrowed, interest rate, term of the notes, average annual debt service and debt service reserve funding requirements, and impact that any difference between the actual and projected revenue requirements for debt service and debt service reserve will have on Petitioner's end user rates. Petitioner's true-up filing should also include an amended tariff giving prospective effect to the actual average annual debt service and debt service reserve requirements, based on the information in the true-up report. If the OUCC objects to the calculations in the true-up report and amended tariff, it has thirty days after the filing of the true-up report with the Commission in which to file any objections and request an expedited Evidentiary Hearing on those objections. If the OUCC does not file an objection within thirty days of Petitioner's true-up filing or the Commission does not otherwise notify Petitioner of any issues, Petitioner's true-up report and amended tariff will be deemed approved, without requiring any further Order from this Commission, and Petitioner's amended tariff will take effect at the start of Petitioner's next billing cycle.

**11. Approval of Stipulation and Settlement Agreement.** Settlements 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, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition v. PSI Energy*, 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—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)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Indiana Code § 8-1-2, and that such agreement serves the public interest.

Based on the evidence of record, we find that the Settlement Agreement is reasonable, just, serves the public interest and should be approved with only one additional requirement. The Commission notes that according to pages nine and ten of OUCC witness Mr. Rees's testimony, Petitioner's water loss has ranged from 29% to 44% between 2001 and 2008. On page ten of his direct testimony, Mr. Rees stated that according to Petitioner's witness Mr. Hawkins, Petitioner's water loss is closer to 15%. However, no evidence was offered to support Mr. Hawkins' statement. Moreover, North Lawrence's 2009 Annual Report indicates a water loss of 45%. According to *Attachments to Phil Hawkins' Responses to Commission's Data Requests Relating to Water Loss Percentages* filed with the Commission on June 7, 2010, Petitioner's water loss calculations for December 2009 through the end of May 2010 are as follows:

<b>Month Ending</b>	<b>Total Loss<sup>1</sup></b>	<b>Water Loss (per North Lawrence)</b>
12/30/2009	<b>52%</b>	21%
1/29/2010	<b>54%</b>	35%
2/25/2010	<b>49%</b>	19%
3/31/2010	<b>31%</b>	18%
4/30/2010	<b>43%</b>	12%
5/28/2010	<b>45%</b>	14%

The Commission generally regards 15% water loss as an upper limit to satisfactory water utility operations or the threshold at which corrective action may be required. This target is computed from the ratio of the volume of water loss to the total volume of water pumped and purchased, which is consistent with the values calculated by the Petitioner for “Total Loss” in the summary above. Petitioner’s use of the phrase “Water Loss” is inconsistent with the Commission’s practice because it deducts “Accounted for Leaks” from the calculation. As a result, the Commission finds that Petitioner’s water loss percentage is well beyond the 15% upper limit or threshold and that further action to correct is necessary.

Petitioner shall file a report with the Commission 120 days from the date of the Final Order in this Cause identifying the actions it is currently taking and plans to take in the future to reduce its water loss to a more acceptable level. In addition, Petitioner shall file a water loss report with the Commission on a semi-annual basis. The first water loss report shall be attached to its Annual Report filed with the Commission on April 30, 2011. Each water loss report shall provide Petitioner’s monthly water loss summary for each month of the preceding six months.

A copy of the Stipulation and Settlement Agreement is attached to this Order and incorporated herein by reference. With regard to future citation of this Order, the Commission finds that our approval herein should be construed in a manner consistent with our findings in *Richmond Power & Light*, Cause No. 40434 (IURC 3/19/97).

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

1. The Stipulation and Settlement Agreement shall be and hereby is approved, and the terms and conditions thereof are incorporated herein as part of this Order. The Parties shall comply with the provisions of the Stipulation and Settlement Agreement.

2. The Petitioner shall file a report in this Cause with the Commission 120 days following the Final Order in this proceeding and a water loss report with the Commission on a semi-annual basis in accordance with Finding Paragraph 11.

3. Petitioner is hereby authorized to issue waterworks revenue notes under indenture in an aggregate amount of \$1,128,000 as described above, subject to the true-up requirements in Finding Paragraphs 6F and 10.

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<sup>1</sup> The percent of total loss includes unmetered water, but it is too small to impact the overall percentage.

4. Petitioner is hereby authorized to increase its annual revenues in the amount of \$191,243, or 10.00% across-the-board, to be implemented in a single phase, as requested by Petitioner and agreed to by the OUCC, subject to the true-up requirements in Finding Paragraphs 6F and 10.

5. Petitioner is hereby authorized to commence and complete its capital improvement projects, as discussed and approved in this Order.

6. Petitioner shall file with the Water/Sewer Division of the Commission a tariff schedule in accordance with the Commission's Rules. Said tariff, when approved by the Water/Sewer Division, shall cancel all previously approved rates and charges and Petitioner's new charges shall be in full force and effect.

7. In accordance with Indiana Code 8-1-2-85, Petitioner shall pay into the Treasury of the State of Indiana through the Secretary of this Commission a fee of twenty-five cents (\$0.25) for each \$100 of waterworks revenue notes issued under this Order, up to a total fee of \$2,820 for the authorized note issuance. Such payment shall be made within thirty (30) days of Petitioner's receipt of the financing proceeds authorized herein.

8. In accordance with Indiana Code 8-1-2-70 and GAO 2009-03, Petitioner shall pay the following itemized charges to the Secretary of the Commission within twenty days from the date of this Order, together with any additional costs that were or may be incurred by the Commission or the OUCC in connection with this Cause. Full payment of these charges is required before Petitioner is permitted to place into effect the increased rates and charges approved herein:

Commission Charges	\$ 1,000.00
OUCC Charges	\$ 2,000.00
Legal Advertising Charges	\$ <u>105.98</u>
TOTAL:	\$ 3,105.98

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

**HARDY, ATTERHOLT, MAYS, AND ZIEGNER CONCUR; LANDIS ABSENT:**

**APPROVED:**

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



**Sandra K. Gearlds**  
**Acting Secretary to the Commission**

STATE OF INDIANA  
 INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE NORTH	)	
LAWRENCE WATER AUTHORITY	)	
OF LAWRENCE COUNTY, INDIANA	)	Cause No. 43716
FOR AUTHORITY TO ISSUE NOTES	)	
UNDER INDENTURE AND	)	
FOR APPROVAL OF A NEW SCHEDULE	)	
OF RATES AND CHARGES	)	

**STIPULATION AND SETTLEMENT AGREEMENT**

This Stipulation and Settlement Agreement (the “Settlement Agreement”) is entered into by and between the Petitioner, North Lawrence Water Authority, Indiana (“NLWA” or “Petitioner”) and the Indiana Office of Utility Consumer Counselor (the “OUCC”) (collectively, the “Settling Parties”). The Petitioner and the OUCC have been duly advised in the premises by their respective staff, experts, and counsel; and they each now hereby stipulate and agree, solely for the purpose of compromise and settlement, that the terms and conditions incorporated in this Settlement Agreement and in a Joint Proposed Order to be filed in this Docket for adoption by the Commission as its Final Order in this Docket, constitute a fair, reasonable and just resolution of all issues in this proceeding, subject to their approval by the Indiana Utility Regulatory Commission (the “Commission” or “IURC”), without modification or further condition that is unacceptable to any Party.

**1. Requested Relief and Pre-Filed Evidence.** On June 17, 2009, Petitioner initiated this Cause by filing a Verified Petition with the Commission requesting authority to adjust its rates and charges for water services and for authority to issue long term debt in the form of notes under indenture. Petitioner filed its pre-filed case in chief on November 6, 2009; the OUCC filed its pre-filed case in chief on March 16, 2010.

**2. Settlement.** After review, analysis, discussion, and negotiation, as aided by their respective technical staff and experts, Petitioner and the OUCC have now agreed on terms and conditions set forth herein that resolve all issues between them in this Cause.

**3. Stipulation.** The Settling Parties jointly stipulate that all testimony and exhibits pre-filed in this cause be admitted into evidence without further hearing, procedure, or cross-examination; and each of the Settling Parties hereby waives its right to cross-examination or to present further evidence of any kind or nature other than evidence filed or submitted in support of this Settlement Agreement.

4. **Agreements as to Petitioner's Requested Relief.** The Settling Parties stipulate and agree that the Commission should accept and approve the following agreements reached between the parties on the various items below:

- A. Capital Improvements. In its pre-filed testimony and exhibits, Petitioner identified certain capital improvements that need to be made to ensure that Petitioner continues to provide safe and efficient water service. The parties stipulate and agree that the Commission should accept and approve the 25,000 feet of 12-inch reinforcement main from the booster station to the Cobb Lane and Springville Judah Road proposed by Petitioner, for a total estimated project cost of \$1,128,000 (subject to true-up). This improvement is more fully set forth in Petitioners' pre-filed case in chief. The estimated funding for Petitioner's project will be financed by \$1,128,000 of proposed bonds issued through the State Revolving Fund (subject to true-up). (Brock Settlement Testimony, p. 6). The Settling Parties also agree to future true-up reporting and tariff filing requirements as described in Section 5.A below.
- B. Other Engineering Issues. Petitioner also agrees to adopt the following OUCC engineering recommendations:
- 1) E&R. The OUCC proposed that Petitioner engage a consultant to help develop a five-year plan for extensions and replacements. (Rees Testimony, pp. 5 and 14). As part of the parties' negotiations, the parties have agreed that Petitioner's extensions and replacements shall be funded at \$408,396 per year, which represents Petitioners' historical annual E&R expenditures.
  - 2) Energy Audit. Petitioner agrees to perform an energy audit of its facilities, including lighting, heating, and air conditioning systems, within 180 days of the order, with a summary report of the findings and proposed follow-up actions provided to the Commission and OUCC (Rees Testimony, p. 14). Per the agreement reached between the parties, the OUCC has agreed that \$1,333 of the costs for doing so shall be included in Petitioner's annual revenue requirements for purposes of the rate increase requested herein. (Brock Settlement Testimony, p. 2).
  - 3) Acceleration of Meter Replacements. Petitioner agrees to accelerate its proposed replacement rate for existing manual-read meters by touch-read units from about 100 per year to 200 per year, to be supported through E&R funds. (Rees Testimony, p. 15).

- 4) Tank Painting. Petitioner agrees to modify its tank painting schedule to follow the below recommendation made by the OUCC:

Tank	Type	Capacity	Age of Tank	Estimated Cost
#1	Standpipe	100,000	40	\$35,000
#2	Standpipe	125,000	40	40,000
#3	Elevated	100,000	40	155,000
#4	Standpipe	100,000	40	35,000
#5	Standpipe	500,000	28	150,000
#6	Standpipe	100,000	26	30,000
#7	Standpipe	100,000	23	35,000
#8	Elevated	500,000	13	300,000
#9	Elevated	500,000	10	300,000
				\$1,080,000

$\$1,080,000/20\text{yrs.} = \$54,000/\text{year}$

(Rees Testimony, p. 12), funded by \$54,000 in revenue requirements over a 15-year period. (Brock Settlement Testimony, p. 3). Further, Petitioner will establish a reserve account for tank painting, and will deposit \$4,500 (1/12<sup>th</sup>) of the tank painting expenses monthly. Petitioner will provide quarterly reports to the Commission about the tank painting fund, as provided in Paragraph 5.B below.

- C. Other Accounting and Finance Issues. The Parties also agree to the following regarding accounting and finance issues:

- 1) Operating Expenses. Petitioner agrees to accept the OUCC's net proposed increase of \$71,171 to Petitioner's Operating Expenses. The OUCC's \$71,171 net increase was due to adjustments made to the salaries/wages of officers, pension expenses, water reduction, chemical costs, electricity cost reduction, vehicle/general liability insurance, capital and non-recurring items, bad debts, postage, IDEM fees, tank painting, payroll taxes, depreciation, rate case amortization, and purchased water. (Patrick Testimony, Schedule 4). The OUCC agrees to accept the Petitioner's proposed net increase of \$1,333 to its Operating Expenses, due to the inclusion of costs of the energy audit requested by

the OUCC in Petitioner's revenue requirement. Brock Settlement Testimony, pp. 4. The total agreed net increase to Petitioner's Operating Expenses negotiated and agreed to by the parties is \$72,504, which represents the difference between Petitioner's case-in-chief and the revenue requirement agreed upon. Id.

- 2) Taxes. Petitioner agrees to accept the OUCC's downward adjustment of \$8,323 on Taxes other than for income, due to the OUCC's proposed downward revisions to the Petitioner's pro forma salaries and wages expense. Patrick Testimony, p. 20.
- 3) E&R. Petitioner agrees to accept the OUCC's downward adjustment of \$108,403 on Extensions and Replacements, to correct the 40-month (and not 52-month) period since the last rate order (Patrick Testimony, p. 24; Schedule 7), which combined with upward adjustment of \$3,648 for test year capital expenditures (Brock Settlement Testimony, p. 4), results in a net downward adjustment of \$104,755.
- 4) Working Capital. Petitioner agrees to accept the OUCC's proposed downward adjustment of \$10,921 (Patrick Testimony, pp. 20-21), which, when amortized over two years, results in an increased revenue requirement of \$41,300. (Patrick Testimony, pp. 21, 22; Schedule 8; Brock Settlement Testimony, p. 5).
- 5) Debt Service Reserve. Petitioner agrees to the OUCC's downward adjustment of \$35,224 to its Debt Service Reserve. (Kaufman Testimony, pp. 2-8; Brock Settlement Testimony, p. 5)
- 6) Lien of Credit. Petitioner agrees to the OUCC's deletion of \$73,978 of the amounts included in Petitioner's proposed revenue requirement for payment of the Line of Credit. Such would constitute retroactive ratemaking. (Patrick Testimony, pp. 24-25; Brock Settlement Testimony, p. 5)

- 7) Proposed Debt Service. Petitioner agrees to the OUCC's downward adjustment of \$2,403 to its Proposed Debt Service. (Kaufman Testimony, pp. 2-8; Brock Settlement Testimony, p. 5).
- 8) Proposed Debt Service Reserve. Petitioner agrees to the OUCC's deletion of \$14,982 of the amounts included in Petitioner's proposed revenue requirement for Proposed Debt Service Reserve. (Kaufman Testimony, pp. 2-8; Brock Settlement Testimony, p. 5)
- 9) Customer Deposit Build-Up. Petitioner agrees to the OUCC's deletion of \$47,395 of the amounts included in Petitioner's proposed revenue requirement for return on the plant (Build Up of Customer Deposit Account).(Patrick Testimony, pp. 29-30). Such would constitute retroactive ratemaking. (Brock Settlement Testimony, p. 5).
- 10) Interest Income. The Parties have agreed to reduce the \$587 Petitioner included for test year interest income to zero. The parties agree that given Petitioner's shortfall in funds, Petitioner did not receive interest on funds that were not invested. (Brock Settlement Testimony, p. 6)
- 11) Other Income. The Parties have agreed to reduce the \$2,481 Petitioner included for test year other income to zero. The parties agree that given Petitioner's shortfall in funds, Petitioner did not receive other income. (Brock Settlement Testimony, p. 6)
- 12) IURC Fees. Petitioner agrees to the OUCC's downward adjustment of \$1,182 to the amounts included as IURC Fees in its revenue requirement, in accordance with the .1073599% percentage fee levee. (Patrick Testimony, p. 20; Brock Settlement Testimony, p. 6)

D. Revenue Requirement and Rate Increase. The Settling Parties agree that Petitioner's additional required revenues, in the amount of \$191,243, warrant a 10.0% across-the-board rate increase. Although Petitioner originally asked for a phased-in rate increase

(in two phases), as part of the parties' negotiations, Petitioner has agreed to a single across-the-board rate increase. Attached to this Agreement are accounting schedules that reflect the agreed upon revenue requirement, as well as the rates and charges for Petitioner. (Brock Settlement Testimony, p. 6; Exhibit SKB-S1).

5. **Reporting Requirements.** In consideration of the OUCC's agreement to the items above, Petitioner agrees to meet the following additional reporting requirements under this agreement:

- A. True-Up Requirements. Petitioner agrees to a "true-up" process, to be implemented after Petitioner closes on the State Revolving Fund (SRF) Loan and receives the OCRA grant to address any differences between projected and actual project costs or projected and actual debt service and debt service reserve requirements, as well as other revenue requirements such payment in lieu of taxes and depreciation. Under the proposed settlement, Petitioner's initial true-up report should be filed with the IURC, and a copy served on the OUCC, within 30 days of the loan closing date. The true-up report must state the actual interest rate and principal amount borrowed, along with an updated amortization schedule. The parties agree that its revenue requirement and rates also should be true-up at that time to reflect actual debt service.
  
- B. Tank Painting Fund. Petitioner agrees to provide quarterly reports to the Commission about the tank painting fund, which will detail the amounts deposited and a detailed description of any funds removed. (Patrick Testimony, p. 32).
  
- C. E&R Plan. Petitioner agrees to develop a formal extension and replacement plan and provide the same to the Commission within six (6) months after the Order in this case; further, Petitioner will attach each year's revised E&R plan to its IURC Annual Report. (Patrick Testimony, p. 32).
  
- D. Line of Credit. Petitioner agrees to submit a quarterly report to the Commission showing the monthly payments and outstanding balance on its Line of Credit. (Patrick Testimony, p. 32).
  
- E. Cash Flow Forecast. Petitioner agrees to develop and maintain a rolling 12-month cash flow forecast and provide it to Petitioner's Board of Directors each month. These forecasts shall be included in or attached to the Petitioner's quarterly reports to the OUCC. (Patrick Testimony, p. 32).

- F. Underfunding of Debt Service Reserve. If Petitioner's debt service reserve becomes underfunded, Petitioner agrees to notify the OUCC and Commission to provide explanation. (Kaufman Testimony, p. 10).
- G. Debt Service Reserve Funds. Petitioner agrees to provide bank statements to the OUCC on a semi-annual basis demonstrating that it is making monthly deposits into its debt service reserve funds. (Kaufman Testimony, p. 10).

6. **Final Hearing**. At the final evidentiary hearing, the Settling Parties will confirm their request that the Commission approve this Settlement Agreement, and all pre-filed evidence will be offered for admission into the evidentiary record without cross-examination or objection.

7. **Evidence**. The Settling Parties agree that the pre-filed testimony and exhibits, along with any testimony in support of this Settlement Agreement presented at the noticed public hearing, provide and constitute substantial and sufficient probative evidence (170 IAC 1-1.1-17(d)) upon which the Commission can and should determine that the Settlement Agreement is reasonable, just and consistent with the purpose of Indiana Code 8-1.5-3-1, *et seq.*, and, where applicable, Ind. Code 8-1-2-1, *et seq.*; that the Settlement Agreement serves the public interest; and that upon approval of this Settlement Agreement by the Commission's adoption of the Settling Parties' Joint Proposed Order, without any material change not accepted in writing by each of the Settling Parties, this proceeding will be finally decided and resolved, without any remaining right of appeal, modification or rehearing, unless otherwise agreed by the Settling Parties, subject to agreed true-up requirements.

8. **Non-Precedential Effect**. This Settlement Agreement shall not constitute nor be cited as precedent, except as necessary to enforce its terms before the Commission or in any state court of competent jurisdiction. The Settlement Agreement is solely the result of compromise in the settlement process and, except as provided herein, a Joint Proposed Order to be filed by the Settling Parties for possible adoption by the Commission, shall be without prejudice to and shall not constitute a waiver of any legal position that either of the Settling Parties may take in any other regulatory proceeding(s).

9. **Authority to Execute**. Each of the undersigned represent that he or she is fully authorized to execute this Settlement Agreement on behalf of their designated clients, who agree to be bound by this Settlement Agreement.

10. **Contingent Settlement**. This Settlement Agreement is contingent upon the Commission's issuance of a Final Order approving the terms of this Settlement Agreement and adopting the Joint Proposed Order, to be agreed to by the Parties and submitted to the Commission subsequently, to be filed by the Settling Parties for possible adoption by the Commission, without any material change not agreed upon in writing by

each of the Settling Parties. In the event the Commission does not approve this Settlement Agreement, or approves a modified version that is not acceptable to either Settling Party, this Settlement Agreement shall be deemed null and void and withdrawn, unless otherwise agreed by the Petitioner and the OUCC.

ACCEPTED AND AGREED this 24<sup>th</sup> day of May, 2010.

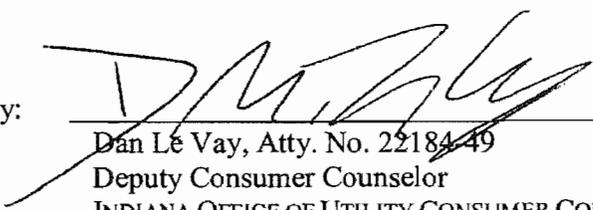
**NORTH LAWRENCE WATER AUTHORITY**

By: \_\_\_\_\_

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