

ORIGINAL

JDA
CM

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION) OF FOUNTAINTOWN GAS) COMPANY, INC., FOR A NEW) SCHEDULE OF RATES AND) CHARGES.)	CAUSE NO.: 43753-U APPROVED: MAR 17 2010
---	---

BY THE COMMISSION:

James D. Atterholt, Commissioner
David E. Veleta, Administrative Law Judge

On August 5, 2009, Fountaintown Gas Company, Inc. (“Petitioner”) filed with the Indiana Utility Regulatory Commission (“Commission”) its Small Utility Application for Rate Change (“Application”) as provided in Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. On August 25, 2009, the Commission’s Natural Gas Division issued a Memorandum stating Petitioner’s application was incomplete. On September 28, 2009, Petitioner filed additional information in support of the Application, including a copy of its notice to customers required by 170 IAC 14-1-2(b). On October 28, 2009, the Commission’s Natural Gas Division issued a Memorandum stating Petitioner’s application had been reviewed by the Commission’s staff and was considered to be substantially complete. On January 26, 2010, the Office of Utility Consumer Counselor (“OUCC”) filed a report with the Commission (the “Report”) pursuant to 170 IAC 14-1-4. The OUCC recommended approval of Petitioner’s increase, as modified by the OUCC’s Report. On February 15, 2010, Petitioner filed a written response accepting the OUCC’s modification to Petitioner’s proposed rate increase and filed Petitioner’s Settlement Agreement Schedules and draft tariff.

As provided in Ind. Code § 8-1-2-61.5, a formal public hearing is not required in rate cases involving small utilities with fewer than 5,000 customers, unless a formal public hearing is requested by ten customers, a public or municipal corporation, or by the OUCC. The Commission received no such request and, accordingly, no formal public hearing has been held.

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

1. Notice and Jurisdiction. The information presented by Petitioner in this Cause establishes that legal notice of the Application filing was published in accordance with applicable law, and Petitioner has given proper notice to its customers of the nature and extent of the proposed rate increase. The Commission thus finds that due, legal, and timely notice of this matter was given and published as required by law. Further, the Commission finds that the Application satisfies all of the requirements of Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. Therefore, this Commission has jurisdiction over the Petitioner and the subject matter of this proceeding, and may issue an Order in this Cause based upon the information filed as provided by 170 IAC 14-1-6.

2. Petitioner’s Characteristics. Petitioner is a public utility organized and existing under the laws of the State of Indiana. Petitioner supplies natural gas and gas service to

approximately 3,270 customers in both rural and municipal areas in Decatur, Hancock, Henry, Rush and Shelby Counties, Indiana.

3. **Test Year.** The test year selected for determining Petitioner's revenues and expenses reasonably incurred in providing and distributing natural gas to its customers includes the twelve (12) months ending December 31, 2008. With adjustments for changes that are sufficiently fixed, known and measurable, the Commission finds that this test period is sufficiently representative of Petitioner's normal operations to provide reliable data for ratemaking purposes.

4. **Relief Requested.** The Petitioner's current base rates and charges are those established by this Commission on March 5, 1997, in Cause No. 40494-U. In its Application, Petitioner proposes to change its base rates and charges by 23.40% to increase its current operating revenue by \$995,484.

5. **OUCC Report.** The OUCC's Report and testimony of Mark H. Grosskopf, a Certified Public Accountant, indicates that the OUCC has analyzed Petitioner's filing, reviewed its books and records, and considered various issues raised by this Cause. Mr. Grosskopf notes that the OUCC has had numerous discussions with Petitioner's representative and based on its review and these discussions, has accepted a number of the pro forma adjustments proposed by the Petitioner. Additionally, Mr. Grosskopf notes that it has suggested additional pro forma adjustments to revenue, purchased gas cost, payroll, pensions, rate case expense, IURC fee, return on equity capital, working capital, various taxes, and the resulting net operating income. The result of the OUCC's recommendations would be an increase of \$865,100 in additional operating revenue. Petitioner filed a written response accepting the OUCC's modification to Petitioner's proposed rate increase.

6. **Commission Findings.** The evidence of record indicates that the Parties have provided this Commission with sufficient information to adequately determine that the public's interest can best be served by accepting Petitioner's small utility filing, as modified by the OUCC's Report. We therefore find as follows:

A. **Rate Base.** The Petitioner, in its original Application, requested an increase in its rates reflecting a used and useful rate base calculated on an original cost basis as of December 31, 2008, of \$5,584,770. The OUCC's Report, Mr. Grosskopf's accompanying schedules, and the Petitioner's Settlement Agreement Schedules suggest a rate base of \$5,581,337. This slight difference, as explained by the Petitioner's Settlement Agreement Schedules, flows from the OUCC's use of a different working capital amount resulting from the OUCC's modification of pro forma adjustments to Petitioner's Operations and Maintenance expenses. Therefore, the Commission finds the OUCC's proposed rate base value of \$5,581,337 is reasonable on an original cost basis, and will establish Petitioner's revenue requirement on the basis of such rate base.

B. **Capital Structure.** The Petitioner initially suggested a return on equity of 10.40%. The OUCC, however, proposed a return on equity of 10.20%. This difference in return on equity causes a difference in the overall return on Petitioner's rate base. Petitioner, in its original filing, sought an 8.73% return on rate base. The OUCC, as part of its Report, proposes an 8.57% overall return on rate base.

We recognize that the return on equity and overall return on rate base is often one of the more contentious issues litigated before this Commission. Parties often provide us with results of various economic studies and the conclusions reached by various expert witnesses. In the present case, the OUCC has explained the lower proposed return, noting that OUCC studies in various other proceedings have typically revealed a lower return on equity. In addition, we have in the record before us a statement by Petitioner that, for purposes of compromise in this Cause, it accepts all of the OUCC's proposed recommendations, which would include the recommendation as to return on common equity and the overall return on rate base. In light of such evidence of record, we find Petitioner's capital structure as of December 31, 2008, to be that reflected below, and find that the Parties' proposed return on rate base of 8.57% is reasonable, and will include the same as part of the establishment of Petitioner's revenue requirement.

Capital Structure

<u>Description</u>	<u>Amount</u>	<u>Percent of Total</u>	<u>Cost</u>	<u>Weighted Cost</u>
Common Equity	\$5,948,547	82.13%	10.20%	8.38%
Customer Deposits	\$199,296	2.75%	6.00%	0.17%
Post-ITC	\$13,044	0.18%	10.06%	0.02%
Deferred Taxes	<u>\$1,082,066</u>	<u>14.94%</u>	0.00%	<u>0.00%</u>
TOTAL	\$7,242,953	100.00%		8.57%

C. Operating Revenues. As reflected by the OUCC Report and the accompanying schedules of Witness Grosskopf, the OUCC has taken exception to Petitioner's proposed operating revenue adjustments because they are impacted by lost customers. The Petitioner initially proposed in recognition of operating revenue and natural gas purchase adjustments, an adjustment to recognize lost customers and their dekatherms ("Dth") of usage. The OUCC recognized the appropriateness of such an adjustment, but suggests that the revenue adjustment should be a reduction of \$51,678 instead of \$136,393. Per the OUCC's review of Petitioner's books, the OUCC reduced Petitioner's proposed test year revenues to reflect test year revenues more indicative of actual revenues in the future. The OUCC based their adjustment on the average customers lost in a year, instead of the actual customers lost in the test year. The OUCC's calculation appears to be more representative of the amount of customers lost over time, instead of in one specific year. The OUCC also references that the dekatherms related to these lost customers is (7,570) Dth rather than Petitioner's proposed (10,740) Dth. The Parties note that these lost sales also impact the unaccounted for gas calculation and each have included an unaccounted for gas adjustment based upon their respective positions. We find the OUCC's adjustments to

operating revenue appropriate and will include the same as part of our determination of Petitioner's revenue requirement.

D. Operating Expenses. The OUCC's Report reveals that the OUCC takes no exception to Petitioner's proposed adjustments relating to postage expense, elimination of charitable contributions, property insurance, health insurance, bad debt, property tax, funding of the customer awareness program, and depreciation. We find these proposed adjustments included in Petitioner's original small utility filing to be reasonable and supported by the evidence. However, the OUCC has taken exception to other operating expense adjustments. As to those exceptions, we find as follows:

1. **Payroll.** The OUCC has acknowledged that Petitioner's payroll has increased on a pro forma basis net of the amount capitalized, but has reduced Petitioner's revenue requirement for pro forma wages from \$524,339 to \$503,183. We note that the Parties agree on the percentage of the payroll increase, which has already been recognized in the test year; but the different pro forma amounts cause the OUCC's proposed adjustment to the test year to be \$32,972, a reduction of \$19,220. The Petitioner, by its acceptance of the OUCC's recommendations, has indicated it is accepting this adjustment. We find the Petitioner's pro forma payroll expense should be increased as proposed by the OUCC and reflected on the Petitioner's Settlement Agreement Schedules.

2. **Pension.** In keeping with the changes to payroll, the OUCC has also reduced Petitioner's proposed increase in the pension expense. The OUCC has proposed, and the Petitioner's Settlement Agreement Schedules reflect, that the adjustment to Petitioner's test year for pension expense is \$3,614.

3. **Rate Case Expense.** The OUCC has recognized that Petitioner has incurred expense to present this rate case. A portion of such rate case expense was designed to cover the cost of the cost of service study, which Petitioner proposed to complete and file. Following negotiations between the OUCC and the Petitioner, it was agreed that any increase would be spread across the board to all rate classes. Therefore, a cost of service study and the rate case expense associated with such cost of service study is unnecessary. The OUCC has proposed to reduce the rate case expense by approximately one-third. The Petitioner, by its acceptance of the OUCC's recommendation, has indicated its willingness to accept this adjustment. Therefore, Petitioner will be authorized to increase Operations and Maintenance expenses by \$11,920 for purposes of recovering rate case expense for the current case and the unamortized cost of its prior Normal Temperature Adjustment proceeding as proposed by the Parties here.

4. **IURC Fee, Utility Receipts Tax, Federal Income Tax, and State Income Tax.** The Parties are in agreement as to the appropriate calculation for the IURC Fee, Utility Receipts Tax, Federal Income Tax, and State Income Tax in order to reflect their various agreements as to Petitioner's revenue requirement. In light of our acceptance of the Parties' proposals as reflected in our findings above, we find that the adjustments shown on the OUCC's Report and the Petitioner's Settlement Agreement Schedules for the IURC Fee, Utility Receipts Tax, Federal Income Tax,

and State Income Tax are appropriate, and will incorporate the same as part of Petitioner's revenue requirement below.

5. **Total Operating Expenses.** Based on the adjustments to Petitioner's test year books and records, the reasonableness of which has been found above, we now find that Petitioner's total operating expenses, which should be included in our determination of Petitioner's revenue requirement, is \$1,675,276, as reflected in the OUCC's Report and the Petitioner's Settlement Agreement Schedules.

E. **Revenue Requirement.** The Parties agree that Petitioner's current operating revenue under present rates and charges does not adequately cover Petitioner's reasonable operating expenses, including a reasonable return, for its service to its customers. Therefore the Parties propose that Petitioner should be authorized to increase its rates and charges in order to give it a reasonable opportunity to fund ongoing operating expenses and provide a reasonable return on its investment. Based on our findings above, and noting the Parties' agreement as to an appropriate pro forma net operating income as shown on the Petitioner's Settlement Agreement Schedules, we find that the Petitioner should increase its current rates and charges, exclusive of the cost of gas, in order to produce additional operating revenue of \$865,100. Such change in its rates and charges should give Petitioner a reasonable opportunity to collect total operating revenues, net of gas costs, of \$2,153,597 resulting in an opportunity to earn a net operating income of \$478,321.

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

1. Consistent with our findings above, Fountaintown Gas Company, Inc. is hereby authorized to increase its rates and charges by \$865,100 so as to produce total annual operating revenue of \$2,153,597, representing a 19.82% increase in its current rates and charges.

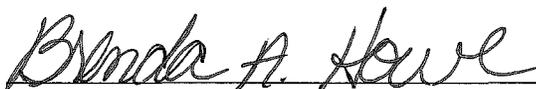
2. Prior to placing into effect such increase, Petitioner shall file appropriate changes in its existing tariffs with the Natural Gas Division of the Commission consistent with the evidence of record and our findings above.

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

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

APPROVED: MAR 17 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