

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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| IN THE MATTER OF THE PETITION) OF EASTERN HENDRICKS COUNTY) UTILITY, INC. FOR A NEW) SCHEDULE OF RATES AND) CHARGES) | CAUSE NO. 43795 U APPROVED: APR 30 2010 |
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BY THE COMMISSION:
David E. Veleta, Administrative Law Judge

On September 24, 2009, Eastern Hendricks County Utility, Inc. (“Eastern” or “Applicant”) filed its Application with the Indiana Utility Regulatory Commission (“Commission”) for a small utility rate change (the “Application”) pursuant to the provisions of Indiana Code § 8-1-2-61.5 and 170 IAC 14-1. On November 10, 2009, the Commission determined that the Application was complete.

On February 8, 2010, the Indiana Office of Utility Consumer Counselor (“OUCC” or “Public”) filed a report with the Commission (the “Report”). The Report made several recommendations to the Commission concerning the relief requested by Eastern. On February 23, 2010, Eastern filed a written response to the OUCC’s Report, stating that Eastern intended to accept the OUCC’s findings in this Cause.

Pursuant to Indiana 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 hearing is requested. No request for a hearing was received by the Commission and accordingly, no hearing has been held.

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

1. Statutory Notice and Commission Jurisdiction. The information presented by Eastern in this Cause establishes that legal notice of the Application filing was published in accordance with applicable law and that Eastern gave proper notice to its customers of the nature and extent of the relief it is seeking. Therefore, due, legal, and timely notice of the matters in this proceeding was given and published as required by law. Eastern is an investor-owned utility. Accordingly, the provisions of 170 IAC 14-1-2 are applicable to the Application, and Eastern is entitled to request an increase in its rates and charges for service pursuant to Indiana Code § 8-1-2-61.5 and 170 IAC 14-1. The Commission, therefore, has jurisdiction over the parties and the subject matter of this Cause.

2. Applicant’s Characteristics. Eastern is an investor-owned utility providing sewage disposal service to customers in the Richwood Estates and Richfield subdivisions in

Avon, Indiana. Eastern serves approximately 257 customers. Eastern's operating area consists of 224 acres with only two lots available in the service area for expansion.

3. **Existing Rates and Relief Requested.** Eastern's existing rates and charges were established on February 6, 2001 in Cause No. 42031. Eastern has requested a 13.99% across-the-board rate increase pursuant to Indiana Code ate increase pursuant to Indiana Code § 8-1-2-61.5. Eastern's proposed rate adjustment would increase its *pro forma* revenue by \$18,272.

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

5. **Revenue Requirements.** As noted above, Eastern has requested an \$18,272 or 13.99% across-the-board increase in rates. The OUCC recommended that Eastern's rates should be increased by \$13,027 or 9.98%. The table below provides a comparison of the two parties' proposed revenue requirements.

| | <u>Applicant</u> | <u>OUCC</u> |
|----------------------------------|------------------|-------------|
| Rate Base | \$ 191,156 | \$ 191,207 |
| Times: Rate of Return | 10.000% | 10.000% |
| Net Operating Income (NOI) | 19,125 | 19,121 |
| Less: Adjusted NOI | 4,519 | 9,155 |
| Increase in NOI | 14,606 | 9,966 |
| Times: Revenue Conversion Factor | 1.2510 | 1.3072 |
| Recommended Revenue Increase | \$ 18,272 | \$ 13,027 |
| Overall Percentage Increase | 13.99% | 9.98% |
| Monthly Rate | \$ 44.46 | \$ 42.89 |

6. **Test Year Accounting Adjustments.** The OUCC, in its Report, proposed the following accounting adjustments based on its review of Easterns' books and records. In a letter filed with the Commission on February 23, 2010, Eastern accepted the OUCC's proposed accounting adjustments.

A. **Rate Case Expenses.** Eastern requested an amortization of rate case expenses over a period of three (3) years. Eastern's last rate case was filed in June 2001, nearly nine (9) years ago. The OUCC argued that nine (9) years between rate filings is not indicative of a frequent filing history and proposed a five (5) year amortization period. The Commission agrees that Eastern's history does not support a three (3) year amortization of rate case expense and finds that the OUCC's determination of a five (5) year amortization period is appropriate. Therefore, the Commission accepts the OUCC's proposed \$1,000 test year increase.

B. IURC Fees. The OUCC recommended modifying Eastern's IURC Fees expense by using the currently effective IURC Fee rate of .001073599. The Commission agrees with the accuracy of the OUCC's calculation and finds that the \$16 decrease in the test year is appropriate.

C. Allocation of services. The OUCC made two adjustments to Eastern's Allocation of Services Provided by JDH Engineering, Inc.¹ First, by using the OUCC's proposed rate base number, Eastern's allocation of rate base is now 39% of all utilities served by JDH Engineering. The OUCC used the agreed upon and Commission approved utility plant value as explained in the Report of Indiana Office of Utility Consumer Counselor for Sani Tech, Inc., Cause No. 43793. The allocation was based on the rate base determination agreed to by the parties in Sani Tech's last rate case, and subsequently approved by the Commission.

Second, the OUCC adjusted the amount of the Annual Service Fee, which for the test year was \$69,000 for the three utilities.² Eastern is now requesting \$85,000 for the three utilities, which is a 23% increase. Eastern's test year portion of the Annual Service Fee was \$33,000. Therefore, the OUCC based the allocation of the Annual Service Fee on the test year amount of \$69,000 for the three utilities, giving Eastern an allocated *pro forma* Annual Service Fee of \$32,430, a decrease of \$570 under the test year.

The Commission agrees with the OUCC that Eastern's requested increase to an affiliate company appears excessive given the current state of the economy and the relative size of the increase. Eastern has not presented any evidence that either supports or justifies a 23% increase in the cost of services provided by JDH Engineering, Inc. Therefore, the Commission finds that the OUCC's recommendation of \$32,430 is appropriate.

D. Depreciation Expenses. Applicant used a 2.5% composite depreciation rate. However, Applicant has used accelerated depreciation rates on some of its plant items. Applicant did not provide a depreciation study, and there has been no prior approval for something other than the composite rate. The OUCC based their recommended depreciation expense on depreciable utility plant in service in the amount of \$344,509 included in Applicant's books as of December 31, 2008. The OUCC recommends the 2.5% composite depreciation rate to both mitigate the rate impact to the ratepayers, and to better reflect the useful life of utility plant in service. The OUCC calculated a *pro forma* depreciation expense of \$3,618, yielding a decrease to the test year expense of

¹ JDH Engineering, Inc. is an affiliate company of Eastern, as are Sani Tech, Inc. and Southeastern Utilities, Inc., both of which have rate cases pending with the Commission. Applicant contracts separately for a Certified Operator and for Lab Services.

² The Annual Service Fee is covered by an affiliate Contract for Utility Management Services with JDH Engineering, Inc., which relates in large part to fulfilling general office duties.

\$219. The Commission finds that the OUCC’s recommendation is reasonable and should be implemented.

E. Income Taxes. The Applicant proposed a state income tax rate of 4.5%. The OUCC used the current state income tax rate of 8.5%. The Commission agrees with the accuracy of the OUCC’s calculation and finds that 8.5% is appropriate.

7. **Conclusion.** The Commission finds that the OUCC’s recommendations and proposed adjustments as reflected above are reasonable and accurate. Based on the evidence presented, the Commission finds the revenue requirements as set forth in the following table should be approved.

Revenue Requirements

| | |
|---------------------------------------|----------------|
| Original Cost Rate Base | \$191,207 |
| Times: Weighted Cost of Capital | <u>10.000%</u> |
| New Operating Income Required | 19,121 |
| Less: Adjusted Net Operating Income | <u>9,155</u> |
| Additional NOI Required | 9,966 |
| Times Gross Revenue Conversion Factor | <u>1.3072</u> |
| Recommended Revenue Increase | \$13,027 |
| Overall Percentage Increase | <u>9.98%</u> |

The proposed Net Operating Income is derived as shown below:

| | |
|---|------------------|
| Revenue | \$ 144,291 |
| Less: Operation and Maintenance Expense | 104,769 |
| Depreciation | 8,613 |
| Taxes Other Than Income | 6,138 |
| Income Taxes | <u>5,652</u> |
| Total Expenses | 125,170 |
| Net Operating Income | <u>\$ 19,121</u> |

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

1. Consistent with the above findings, Eastern is hereby authorized to increase its rates and charges by \$13,027 annually, so as to produce total annual revenue of \$144,291, which represents a 9.98% across-the-board increase in its wastewater rates and charges.

2. Prior to placing into effect the rates and charges approved herein, Eastern shall file with the Commission’s Water/Sewer Division a schedule of rates and charges in a manner consistent with this Order and the Commission’s rules for filing such schedules. Once the

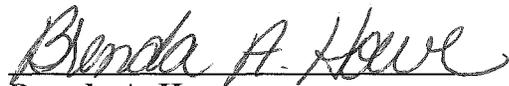
Commission's Water/Sewer Division approves the rate schedule, it shall become effective and cancel all prior rates and charges.

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

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

APPROVED: APR 30 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**