

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF L.M.H. UTILITIES CORP. FOR) CAUSE NO. 43798
AUTHORITY TO ISSUE LONG TERM DEBT) APPROVED:

DEC 16 2009

BY THE COMMISSION:

Jeffrey L. Golc, Commissioner

David E. Veleta, Administrative Law Judge

On October 1, 2009, L.M.H. Utilities Corp. ("Petitioner" or "L.M.H.") filed its petition with the Indiana Utility Regulatory Commission ("Commission"). By agreement of the Petitioner and the Indiana Office of Utility Consumer Counselor ("OUCC"), the Commission established a procedural schedule in this Cause through its docket entry dated October 20, 2009.

Pursuant to proper legal notice, an evidentiary hearing in this proceeding was held on December 3, 2009 in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. The Petitioner and the OUCC were present and participated. The testimony and exhibits of both Petitioner and the OUCC were admitted into the record. No members of the general public appeared or sought to testify at the hearing.

Based upon the applicable law and evidence herein, and being duly advised in the premises, the Commission now finds:

1. **Notice and Jurisdiction.** Due, legal and timely notice of the public hearing conducted herein was given by the Commission as required by law. Petitioner is a "public utility" within the meaning of that term in Indiana Code § 8-1-2-1 and is subject to the jurisdiction of the Commission in the manner and to the extent provided by law. The Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. **Petitioner's Characteristics.** Petitioner is an Indiana corporation engaged in the business of rendering sanitary sewer disposal service to customers in Dearborn County, Indiana.

3. **Relief Requested.** Petitioner seeks Commission approval to borrow up to \$550,000 to be repaid over a 20 year term at an interest rate of 7%, adjustable after an initial five years.

4. **Evidence of the Parties.** Petitioner's witness Jay T. Tucker, President of L.M.H. described the terms of a proposed loan from United Community Bank, of Lawrenceburg, Indiana. Mr. Tucker indicated that the loan would be for a 20-year period at an initial interest rate of 7%, adjustable after five years within certain parameters based on the prime rate. Mr. Tucker testified that the terms include both a maximum interest rate and a minimum interest rate for this loan; and a maximum rate of annual adjustment. Mr. Tucker also noted that there is no pre-payment prohibition. Currently, Mr. Tucker indicates that Petitioner is unable to get a fixed


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rate loan for a 20-year period, but will monitor the local lending environment and when appropriate, consider locking in this loan with a reasonable fixed rate.

Mr. Tucker also described Petitioner's investigation of loans from other financial institutions and the determination that this particular loan was the best loan available to Petitioner. Finally, Mr. Tucker described how the funds would be used. In that regard, he notes that the funds will be used to pay off or pay down current secured and unsecured obligations and to further separate this Petitioner from affiliated companies which he and other family members also own and operate.

Petitioner also offered the testimony and exhibits of Theodore J. Sommer, Certified Public Accountant and Financial Consultant with London Witte Group. Mr. Sommer described his experience in providing financial consulting to entities similar to Petitioner, and his opinion that the proposed loan would create a reasonable debt-equity ratio. Mr. Sommer, through both his testimony and exhibits, described the long term debt, once obtained, would increase the Petitioner's debt ratio from 27.75% to 40.26%. In that regard, Mr. Sommer opined that he believed a debt ratio of 50% or slightly higher would be reasonable, and that he would recommend the same to Petitioner once the economy improves.

Mr. Sommer provided a revised balance sheet and income statement, changed from those attached to the Petition, in order to reflect the impact of this new loan and the Commission's January 21, 2009 rate order in Cause No. 43431. Mr. Sommer also opined that the terms of the proposed loan are reasonable, including the terms requiring personal pledges of Petitioner's current stockholders, mortgage on Petitioner's property, and the establishment of certain escrowed reserves. Finally, Mr. Sommer indicates that this loan will assist Petitioner in meeting the needs of its customers and assist Petitioner's officers in separating the utility from affiliated businesses.

Senior Utility Analyst Edward R. Kaufman testified on behalf of the OUCC that a 7.0% interest rate is reasonable in today's market. However, he expressed concern that the interest rate on L.M.H.'s proposed loan can be reset after five years at Prime + 1.0%. The proposed loan has a cap of 13.0% and a floor of 6.5%. Mr. Kaufman testified that the possibility of a 600 basis point increase could result in Petitioner's annual interest expense and subsequent revenue requirements increasing by as much as \$33,000 ($6.0\% * \$550,000 = \$33,000$). Mr. Kaufman concluded by stating that his concerns were eased by Mr. Tucker's testimony that the Petitioner would watch interest rates, and if appropriate, pre-pay this loan and lock in a reasonable fixed rate.

5. Commission Findings. The Commission finds that the proposed issuance of long term debt is in the public interest and in the interest of Petitioner and its customers. The evidence of record provides detail of the terms associated with this proposed debt issuance. The debt will be payable over a 20-year term at an initial rate of 7% adjustable after five years within certain parameters related to the prime rate. We note that Petitioner may have the opportunity in the future to pre-pay this loan without penalty if it finds it can obtain a fixed rate loan over a similar period of time.

Petitioner's evidence as to the resulting impact on its capital structure reflects a debt ratio of slightly more than 40%. The Commission finds this ratio to be reasonable for this utility at this time. Based on the evidence, the Commission approves L.M.H.'s request for financing authority up to \$550,000 under the terms described in the evidence of record, including the loan commitment document attached as Exhibit C to the Verified Petition.

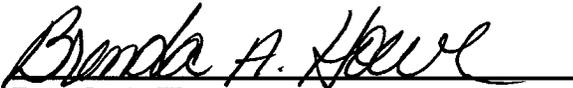
IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. Petitioner shall be and hereby is authorized to consummate the loan with United Community Bank, on terms consistent with its testimony, for up to \$550,000 for a period of up to 20 years at an interest rate of 7%, adjustable after an initial five years.
2. Within sixty (60) days after closing, Petitioner shall submit a report to the Commission with a copy to the OUCC summarizing the results of the financing. The report shall include a description of the terms of the financing, including the calculation of the effective interest rate and resulting capital structure.
3. This order shall be effective on and after the date of its approval.

HARDY, ATTERHOLT, GOLC, LANDIS, AND ZIEGNER CONCUR:

APPROVED: DEC 16 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