

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

SOUTH COUNTY UTILITIES, INC.) CAUSE NO. 43799 U
APPLICATION FOR SMALL UTILITY)
RATE CHANGE) APPROVED: JUN 16 2010

BY THE COMMISSION:

David E. Veleta, Administrative Law Judge

On October 1, 2009, South County Utilities, Inc. ("South County" 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 December 10, 2009, the Commission determined that the Application was complete.

On March 10, 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 South County. On March 31, 2010, South County filed a written response to the OUCC's Report, stating that South County intended to accept the OUCC's findings in this Cause. The Report included a petition signed by ten (10) individuals requesting that a public hearing be held in this Cause. Notwithstanding the inclusion of the petition, the Report was silent with respect to a recommendation from the OUCC regarding the need to conduct a Field Hearing in this Cause. On April 29, 2010, the Presiding Administrative Law Judge issued a docket entry requesting that the OUCC clarify its request with respect to the foregoing issue. On May 6, 2010, the OUCC filed a response to the docket entry stating that "the OUCC is not at this time requesting that a formal public hearing be scheduled."

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 South County in this Cause establishes that legal notice of the Application filing was published in accordance with applicable law and that South County 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. South County is an investor-owned utility. Accordingly, the provisions of 170 IAC 14-1-2 are applicable to the Application, and South County 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. South County is an investor-owned utility providing wastewater collection and treatment in certain rural areas of Lake County, Indiana. South County serves approximately 60 customers.

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3. **Existing Rates and Relief Requested.** South County's existing rates and charges were established on January 18, 1995 in Cause No. 39999. South County has requested a 40.39% across-the-board rate increase pursuant to Indiana Code ate increase pursuant to Indiana Code § 8-1-2-61.5. South County's proposed rate adjustment would increase its *pro-forma* revenue by \$18,299.

4. **Test Year.** The test year selected for determining South County'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 South County's normal operations to provide reliable data for ratemaking purposes.

5. **Revenue Requirements.** As noted above, South County has requested an \$18,299 or 40.39% across-the-board increase in rates. The OUCC recommended that South County's rates should be increased by \$10,510 or 31.94%. The table below provides a comparison of the two parties' proposed revenue requirements.

	<u>Applicant</u>	<u>OUCC</u>
Rate Base	\$ 11,181	\$ 14,949
Times: Rate of Return	0.00%	8.28%
Net Operating Income (NOI)	-	1,238
Less: Adjusted NOI	<u>(14,650)</u>	<u>(6,803)</u>
Increase in NOI	14,650	8,041
Times: Revenue Conversion Factor	1.307	1.307
Recommended Revenue Increase	<u>\$ 18,299</u>	<u>\$ 10,510</u>
Overall Percentage Increase	<u>40.39%</u>	<u>31.94%</u>

6. **Test Year Accounting Adjustments.** The OUCC, in its Report, proposed the following accounting adjustments based on its review of South County's books and records. In a letter filed with the Commission on March 31, 2010, South County accepted the OUCC's proposed accounting adjustments.

A. **Revenue Adjustment.** In calculating its revenues for the test year, Applicant included a \$4,325 payment received in January of 2008 for fees that accrued in 2007. Accordingly, the OUCC removed that amount from Applicant's *pro-forma* proposed revenue computation. The Commission agrees with the OUCC's adjustment to the test year revenues.

B. **Transportation Expenses.** Applicant proposed a *pro-forma* proposed Transportation Expense that consisted of one-half of the monthly payment on his personal vehicle, plus gasoline expense of approximately \$100 per month. A more reasonable method of reimbursement would be to use the number of miles driven times the current Internal Revenue Service approved rate for business use of a vehicle, namely fifty-five cents (\$0.55) per mile. The Commission agrees with the OUCC's adjustment to transportation expenses.

C. Payroll Expenses. South County is wholly-owned by Chris Haskell, who is the corporation's sole employee and President. The Applicant's filing contains a *pro-forma* present adjustment that reduces payroll expense by \$9,000. However, Applicant's *pro-forma* operating income statement contains an adjustment that establishes a new "Contracted Operations" expense of \$15,000. Applicant is reducing the amount paid directly to Mr. Haskell, but adding a new \$15,000 annual management fee to be paid to "Operators Incorporated," a Sub-Chapter S Corporation which is also wholly-owned by Mr. Haskell, to handle Applicant's day-to-day operations. There is no written documentation to memorialize the terms of South County's relationship with Operators Incorporated. Therefore, no affiliate interest contract was filed with the Commission, as is required under Indiana Code § 8-1-2-49. Since Mr. Haskell is the sole shareholder and President of both South County and Operators Incorporated, the two companies are "affiliated entities" under Indiana Code § 8-1-2-49. Since no management agreement between the two affiliated entities has been filed with the Commission, no annual management fee should be included in Applicant's revenue requirements for recovery through rates. Accordingly, the OUCC removed Applicant's proposed \$15,000 *pro-forma* adjustment for Contracted Operations expense. In light of that adjustment, the OUCC did not challenge the Applicant's continued recovery through rates of \$9,000 per year for *pro-forma* payroll expense. The Commission agrees with the OUCC's adjustment to payroll expenses.

D. Payroll Taxes. Consistent with the above adjustments, the OUCC recalculated and made a minor adjustment to Applicant's proposed allowance for payroll taxes. The Commission agrees with the OUCC's adjustment to payroll taxes.

E. IURC Fee. During the test year, Applicant did not make any IURC fee payments. Accordingly, the OUCC has added a *pro-forma* present adjustment of \$49 for payment of the annual IURC fee at the current rate of .1073599%. The Commission agrees with the OUCC's adjustment to the IURC fee.

F. Depreciation Expenses. Applicant used accelerated tax depreciation as its book depreciation. The OUCC has calculated Applicant's *pro-forma* depreciation expense using the composite depreciation rate approved by the Commission for a small sewer utility with its own treatment plant – i.e., 2.5%. Using the Commission's composite depreciation rate, the OUCC proposed a \$3,455 *pro-forma* decrease to Applicant's test year depreciation expense. The Commission agrees with the OUCC's adjustment to depreciation expenses.

G. Federal Income Tax. Applicant made no provision for *pro-forma* present federal income taxes in calculating its proposed rate increase. Accordingly, the OUCC used a 15% tax rate to calculate the *pro-forma* present

rate federal income tax adjustment shown on Schedule 6, Adjustment 7. The Commission agrees with the OUCC's adjustment to federal income tax.

H. State Income Tax. The OUCC used the current state income tax rate of 8.5% to calculate the *pro-forma* present rate state adjusted net income tax allowance shown on Schedule 6, Adjustment 8. The Commission agrees with the OUCC's adjustment to state income tax.

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	\$14,949
Times: Weighted Cost of Capital	<u>8.28%</u>
NOI Required for Return on Rate Base	1,238
Less: Adjusted NOI at Current Rates	(6,803)
Net Revenue Requirements	<u>8,041</u>
Times: Revenue Conversion Factor	<u>1.307</u>
Net Revenue Increase Required	<u><u>\$10,510</u></u>
Calculated Percentage Increase	<u><u>31.94%</u></u>

Based on the data above, the monthly sewer flat fee of a residential customer will increase from \$49.15 to \$64.85.

8. Applicant's Outstanding Debt. On December 20, 2007, Applicant entered into an agreement creating a \$30,000 line of credit with Chase Bank. According to the note, Applicant will repay the debt over seven (7) years at a variable interest rate (prime plus 5.5%), with a principal payment of approximately \$357 per month (\$30,000 / 84 months), plus interest. Applicant did not seek Commission approval prior to incurring debt. Indiana Code § 8-1-2-77 requires a public utility to secure Commission approval prior to incurring debt. Before incurring any additional debt, Applicant shall petition the Commission for approval.

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

1. Consistent with the above findings, South County is hereby authorized to increase its rates and charges by \$10,510 annually, which represents a 31.94% across-the-board increase in its wastewater rates and charges.

2. Prior to placing into effect the rates and charges approved herein, South County 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.

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

APPROVED: JUN 16 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