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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE TOWN OF CEDAR) LAKE FOR APPROVAL OF THE) ISSUANCE OF LONG TERM DEBT OR IN) THE ALTERNATIVE, THE ISSUANCE OF) A BOND ANTICIPATION NOTE)	CAUSE NO. 43887 APPROVED: MAY 26 2010
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BY THE COMMISSION:

Carolene R. Mays, Commissioner
Aaron A. Schmoll, Administrative Law Judge

On April 16, 2010, the Town of Cedar Lake (“Petitioner”) filed its Verified Petition initiating this Cause, along with the verified testimony of its witness, Theodore J. Sommer.

On April 28, 2010, the Presiding Officers conducted an attorney’s conference in lieu of a pre-hearing conference. At the attorney’s conference, counsel for Petitioner and the Office of Utility Consumer Counselor (“OUCC”) attended and the parties agreed to a procedural schedule in this Cause. On May 10, 2010, the Commission entered its docket entry establishing the procedural schedule in this Cause.

On May 12, 2010, the OUCC filed its notice of intent not to file testimony in this Cause. On May 14, 2010 and May 17, 2010, Petitioner filed additional information supporting and clarifying its request.

The Commission conducted an evidentiary hearing in this Cause on May 18, 2010 in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the OUCC were present and participated. The Petitioner’s Verified Petition and its verified testimony were admitted into the record without objection. At the conclusion of Petitioner’s direct case, the OUCC, consistent with its previously filed notice, expressed no objection to the relief requested by Petitioner. No members of the general rate paying public appeared or sought to testify. The hearing was continued to May 25, 2010 in order to allow sufficient time for additional notice to be provided, at which time the record was closed.

The Commission, having considered the evidence in this Cause, now finds as follows:

1. **Notice and Jurisdiction.** Due, legal, and timely notice of these proceedings was given and published as required by law. Petitioner is a municipality as the same is defined in Indiana Code § 8-1-2-1. Petitioner owns and operates a municipal utility as the same is defined in Indiana Code § 8-1-2-1. Petitioner is subject to this Commission’s jurisdiction as to certain matters, Indiana Code § 8-1.5-1, including the issuance of long term debt. Accordingly, the Commission has jurisdiction over the Petitioner and the subject matter of this Cause.

2. Petitioner's Characteristics. Petitioner is a municipality located in Lake County, Indiana. Petitioner currently operates a municipal water utility providing potable water service in and around the Town of Cedar Lake, using among its assets those acquired from a public utility and included in the prior order of this Commission in Cause No. 43655. Petitioner's current rates are those authorized and its existing bond anticipation note ("BAN") is that recognized in our order of April 29, 2009, in Cause No. 43655.

3. Relief Requested. Petitioner's Verified Petition seeks authority from this Commission to issue long term debt to the Indiana Finance Authority through its State Revolving Fund ("SRF") for purposes of paying off its existing BAN or in the alternative, to issue a new bond anticipation note for purposes of rolling over the existing BAN for up to an additional one year period.

4. Evidence of the Parties. Petitioner's evidence consists of the information set forth in its Petition, verified by its Town Administrator, Ian Nicolini, and the prefiled testimony of Theodore J. Sommer. Mr. Nicolini advises us that Petitioner issued the existing BAN on June 1, 2009, following our order in Cause No. 43655. That BAN was used to help fund the acquisition of assets from Utilities, Inc. The BAN comes due on June 1, 2010, and will need to be paid off or rolled over. Based on discussions with the State Revolving Fund ("SRF"), the Petitioner believes long term debt can be acquired to pay off the BAN. Petitioner believes issuing a new one year bond anticipation note to cause the current BAN to roll over is also a reasonable alternative.

Petitioner's Witness Sommer offered testimony on the timing of this Petition; the likely terms of the long term debt with SRF; the inability to extend the existing BAN; and the ability to support the proposed debt through current rates. Mr. Sommer also described his meeting with representatives of SRF and their indication of a willingness to close a long term loan with Cedar Lake if that loan would be supported by the value of this utility's assets, the ability of its rates to support such loan, and the approval by this Commission for any such long term debt. Petitioner's Witness Sommer indicated that he and his firm have reviewed Petitioner's current rates. Mr. Sommer opined that the current rates charged by the Petitioner are sufficient to operate Petitioner's utility and to support either a long term debt or short term debt until such time as the Commission has an opportunity to review Petitioner's base rates anticipated to occur next year.

Mr. Sommer also opined that the value of Petitioner's water utility assets will support the proposed debt. Mr. Sommer went on to describe what he expects will be in the final terms from the SRF. He noted the amount of the loan would be as high as that supported by the value of the assets, that the interest rate would likely be around 3%, but could change between now and closing, and that the length of time for such a loan would be the typical 20 year note traditionally used by SRF. Mr. Sommer recommended that this Commission authorize the Petitioner to close on a loan with SRF and if such a loan cannot be closed, to issue a new bond anticipation note for purposes of rolling over the existing BAN. He suggested that either form of debt be authorized in maximum amounts: of up to \$2,500,000, at an interest rate of up to 4%, and for a term of up to 20 years, noting that any new bond anticipation note would be issued for only one year. Mr. Sommer concluded his testimony by suggesting that this Petitioner would file a report with this

Commission and the OUCC describing the actual debt that was incurred and the final terms that were required.

The OUCC has indicated that it has no objection to the relief requested by the Petitioner as described in its Verified Petition and the testimony of its Witness Sommer. The OUCC also indicates that it has reviewed the Petitioner's proposed order and has no objections to the Commission issuing an order in keeping with that proposal.

5. Discussion and Findings. On April 29, 2009, in Cause No. 43655, we approved the acquisition by this Petitioner of utility assets previously owned by Utilities, Inc. That acquisition was funded in part by the issuance of the BAN, which gives rise to the relief requested by the Petitioner in this Cause.

In this Cause, the Petitioner has appropriately come before us and provided us information as to the need to pay off or roll over its existing BAN, the alternative forms of financing that are available to the Petitioner, the anticipated terms under which the financing would be arranged, and the ability of its current rates and asset value to support its requested debt until such time as the Commission has an opportunity to review Petitioner's base rates anticipated to occur next year. In essence, the Petitioner is asking for authority to continue the process it began in Cause No. 43655 by issuing new debt to replace the existing short term debt which is now coming due.

Petitioner's evidence describes discussions with the entity through which its existing BAN was placed and with representatives of the SRF. The Petitioner describes a potential long term loan from SRF reflecting favorable terms and indicates that such financing is its preferred alternative. Commission approval of long-term debt is required under Indiana Code 8-1.5-2-19. However, Petitioner indicates that if that long term loan cannot be closed, for whatever reason, it will seek to issue a new short term bond anticipation note for purposes of rolling over the existing BAN. Finally, Petitioner notes that the terms of potential loans, particularly the interest rate, can change between its evidence and any eventual closing, and thus has requested authority from this Commission up to certain maximum terms. Based upon the evidence of record in this Cause, we hereby authorize Cedar Lake to issue long term debt through the SRF or issue short term debt for up to one year as requested by its Petition.

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

1. Petitioner is hereby authorized to issue a long term note to the Indiana Finance Authority's State Revolving Fund in an amount of up to \$2,500,000 for a term of up to 20 years at an interest rate of up to 4%.

2. Petitioner is authorized to issue short term debt in lieu of the above authorized long term note for up to \$2,500,000 for a term of up to one year at an interest rate of up to 4% if the SRF debt cannot be facilitated prior to June 1, 2010.

3. Petitioner shall report to this Commission within 90 days of the date on which it issues the forms of debt authorized herein. Such report shall provide this Commission information as to the amount borrowed, the length of time utilized, and the interest rate required. A copy of such report shall also be provided at the same time to the Office of Utility Consumer Counselor.

4. In accordance with Ind. Code 8-1-2-70 and GAO 2009-03, Petitioner shall pay the following itemized charges to the Secretary of the Commission within twenty (20) days from the date of this Order:

Commission Charges	\$ 504.22
OUCG Charges	\$ 456.68
Legal Advertising Charges	\$ <u>74.46</u>
TOTAL:	\$1,035.36

5. In accordance with Ind. Code § 8-1-2-85, Petitioner shall pay a fee of twenty-five cents (\$0.25) for each \$100.00 of long-term bonds issued into the Treasury of the State of Indiana, through the Secretary of the Commission, within thirty (30) days of the receipt of the financing proceeds authorized herein.

6. This order shall be effective on and after the date of its approval.

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

APPROVED: MAY 26 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