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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF)
 SOUTH HAVEN SEWER WORKS, D/B/A) CAUSE NO. 43974
 AQUA INDIANA, INC., TO INCREASE ITS)
 SEWER RATES AND CHARGES PURSUANT) PREHEARING CONFERENCE
 TO COMMISSION'S MINIMUM STANDARD) ORDER
 FILING REQUIREMENTS AND TO ADOPT)
 A NEW RATE SCHEDULE REFLECTING) APPROVED: MAR 30 2011
 THE APPROVED RATES AND CHARGES)

BY THE COMMISSION:

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

On November 29, 2010, Petitioner, South Haven Sewer Works, d/b/a Aqua Indiana, Inc. ("Petitioner") filed its *Verified Petition and Notice of Intent to File in Accordance with Minimum Standard Filing Requirements* with the Indiana Utility Regulatory Commission ("Commission") in this matter. Petitioner filed the direct testimony and exhibits constituting its case-in-chief, and submitted working papers and data complying with the requirements of 170 IAC 1-5-7 to 16, on November 30, 2010.

On November 30, 2010, Petitioner and the Indiana Office of Utility Consumer Counselor ("Public" or "OUCC") filed their *Joint Stipulation and Agreement* setting forth and supporting a proposed procedural schedule for this Cause, as well as their agreement concerning other matters at issue in this Cause.

Pursuant to notice given as provided by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, a Prehearing Conference was conducted on December 29, 2010, in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the Indiana Office of Utility Consumer Counselor ("OUCC" or "Public") entered their appearances. No member of the general public appeared or participated at the hearing.

Based upon the agreement of those parties, the Commission now enters the following findings and order which should become a part of the record in this proceeding:

1. Test Year and Accounting Method. The test year for determining Petitioner's actual and pro forma operating revenues, expenses and operating income under present and proposed rates should be the twelve (12) months ended June 30, 2010, adjusted for changes that are fixed, known and measurable for ratemaking purposes and that occur within twelve (12) months following the end of the test year.

2. Rate Base Cutoff. The rate base cutoff shall reflect used and useful property as of

December 31, 2010 and, if needed, Petitioner shall supplement its case-in-chief on or before January 31, 2011 to reflect the value of its proposed rate base as of December 31, 2010.

3. **Field Hearing.** The Commission will conduct a public field hearing beginning at 6:00 p.m. local time on April 6, 2011 in the Paul Saylor Elementary School Gymnasium, 331 Midway Dr., Valparaiso, IN.

4. **Public's and Intervenors' Prefiling Date.** Public and all Intervenors should prefile with the Commission and serve on all parties of record the prepared testimony and exhibits constituting their respective cases-in-chief on or before April 21, 2011.

5. **Cross-Answering Testimony.** Public and all Intervenors should pre-file with the Commission and serve on all parties of record any cross-answering testimony and exhibits responding to the cases-in-chief pre-filed by parties other than Petitioner on or before May 9, 2011.

6. **Petitioner's Rebuttal Pre-filing.** Petitioner should pre-file with the Commission and serve on all parties of record its rebuttal testimony and exhibits on or before May 23, 2011.

7. **Petitioner's Declaration of Use and Usefulness of Major Projects.** Petitioner shall file with the Commission its declaration of the use and usefulness of the major project identified as part of its case-in-chief at least ten (10) business days prior to June 28, 2011. If needed, Petitioner shall also file by that date supplemental testimony updating its case-in-chief to reflect the value of the major project. Copies of same should be served upon all parties of record.

8. **Public Evidentiary Hearing.** An evidentiary hearing in this Cause should commence on June 28, 2011 at 9:30 a.m., in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana and continue, as needed, on June 29 and 30, 2011, at which time Petitioner, Public and all Intervenors shall present their respective cases-in-chief and their witnesses should be cross-examined. Thereafter, Petitioner may offer its rebuttal evidence and evidence of its updates and its rebuttal witnesses should be made available for cross-examination.

9. **Witness Order.** Parties should submit their intended order of witnesses to the Commission and the parties in writing at least two (2) business days in advance of any hearing.

10. **Post-Hearing Submissions and Order.** The following post-hearing schedule should apply:

Petitioner's submission of its proposed order and post-hearing brief, if any	July 21, 2011
Public's and Intervenors' submission of their proposed orders, exceptions to Petitioner's proposed order and post-hearing briefs, if any	August 22, 2011

Public's and Intervenor's submission of
replies to each others proposed orders,
exceptions and briefs September 6, 2011

Petitioner's submission of exceptions to
proposed orders and replies to exceptions
and briefs of Public and Intervenor September 6, 2011

170 IAC 1-5-2(c)(4) provides an exception to complete a case filed under the MSFR beyond the typical 10-month period if exceptional circumstances so warrant. In order for the parties to agree to the schedule proposed herein, the parties have proposed a schedule that provides for a Commission Order to be issued by December 7, 2011, which is beyond 12 months from the date of Petitioner's pre-filing date. The Commission finds that exceptional circumstances do exist and that the underlying schedule is reasonable. Further, we authorize the Presiding Officers to this Cause to make further modifications to the underlying procedural schedule, for good cause shown.

11. Objection to Pre-filed Testimony and Exhibits. Any objections to the admissibility of pre-filed testimony or exhibits should be filed with the Commission and served on all parties of record no less than two (2) business days prior to the date scheduled for commencement of the hearing at which the testimony or exhibit will be offered into the record.

12. Corrections and Copies. Any corrections to prefiled testimony or exhibits shall be filed with the Commission and served on all parties of record no less than two (2) business days prior to the date scheduled for commencement of the hearing at which the testimony or exhibit will be offered into the record. If corrections to an exhibit appear in multiple iterations or are extensive, the exhibit with corrections incorporated shall be rebound as necessary to minimize confusion over the substance and pagination of the exhibit.

With the exception of working papers, an original and five (5) copies of all prepared testimony and exhibits shall be filed with the Commission. Parties shall provide copies of any exhibits or materials used in cross examination during the proceeding to the other parties, the assigned staff advisors and the Presiding Commissioner and Administrative Law Judge at the time said exhibits and materials are so used in cross examination. Although the Commission's rules require that original copies be one-sided, it is the Commission's preference that duplicate copies use both sides of the paper.

Parties may also elect to file documents with the Commission using the Commission's Electronic Filing System in lieu of filing paper documents. Pursuant to the terms and conditions of the Electronic Filing System, documents filed electronically are deemed filed the date they are submitted, subject to verification and acceptance by the Commission, and will receive an electronic file stamp. With respect to electronic filings, if a party organizes its filing in a bound volume for ease of reference at a hearing, the party shall provide, within two (2) business days of the electronic filing, two (2) such bound volumes for use by the presiding officers during the hearing. When supplying the bound volumes, the party shall provide a copy of the email

reflecting the date the electronic filing was accepted by the Commission.

Regardless of whether filing is made with paper copies or electronically, the filing party, on the day of filing, shall also email a copy of the filing to the Presiding Administrative Law Judge.

13. Sworn Testimony. Any witness testimony to be offered into the record of this proceeding should be made under oath or affirmation. In accordance with 170 IAC 1-1.1-18(h), if the pre-filed testimony of a witness is to be offered into evidence at the evidentiary hearing, and the witness sponsoring the pre-filed testimony is not required to, and does not, attend the evidentiary hearing, the pre-filed testimony should be accompanied by the witness's sworn affidavit or written verification at the time the evidence is offered into the record.

14. Stipulations. Prior to the evidentiary hearings, the parties are encouraged to consider whether they will stipulate to: (1) the qualifications of expert witnesses; (2) the admissibility of pre-filed testimony and exhibits; (3) the waiver of cross-examination of witnesses; and (4) such other matters as they may deem appropriate. The parties may consult as to whether any pre-filed evidence can result in the narrowing of issues presented for determination by the Commission.

15. Intervention. Pursuant to 170 IAC 1-1.1-11, any party permitted to become an Intervenor in this Cause should be bound by the record as it stands at the time its Petition to Intervene is granted.

16. Discovery. Discovery should be conducted on an informal basis and be available for all parties. Any party receiving a discovery request should respond to or object to the discovery request within ten (10) calendar days of receipt. Discovery served after May 23, 2011 should be responded to or objected to within five (5) business days. Any discovery request served after noon on the last business day of the week will be treated as having been served on the next business day. Any discovery request served after 5 p.m. shall be treated as served on the next business day.

17. Stipulations on Other Issues. The parties have stipulated to the following issues, which are noted for the record and shall be taken under advisement by the Commission:

(a) Fair Value. The regulatory fair value of Petitioner's sewage disposal utility is its original cost rate base. In connection with this issue, the parties stipulated that (i) it is not necessary for Petitioner to submit evidence of the reproduction cost of its plant and property as proof of the regulatory fair value rate base; (ii) evidence establishing the original cost rate base is sufficient to establish its regulatory fair value rate base; and (iii) that the stipulation on this issue is not intended, and does not constitute, any agreement concerning the specific manner in which the elements shown above are to be calculated or otherwise determined, including without limitation the acquisition adjustment net of accumulated amortization.

(b) Weighted Cost of Capital. Petitioner should be allowed the opportunity to earn an overall weighted cost of capital of 7.62% based upon a capital structure consisting of

50% long-term debt and 50% common equity at a debt cost rate of 5.14% and a common equity cost rate of 10.1%. The parties stipulate that a weighted cost of capital of 7.62% will contribute to Petitioner earning a net operating income that adequately and fairly compensates it for its investments, while maintaining Petitioner's financial viability.

(c) **Rate Case Expense.** Petitioner shall file no later than ten (10) days before the final hearing a verified statement detailing its actual rate case expenses incurred as of that date and those anticipated to be incurred through the entry of a final Order and, notwithstanding any evidence to the contrary, Petitioner's rate case expenses in this Cause shall not exceed \$400,000. Further, nothing agreed to in the *Joint Stipulation and Agreement* prohibits the OUCC from disputing any portion of Petitioner's rate case expense or from seeking in discovery in advance of its filing the anticipated rate case expenses or the actual rate case expenses incurred to date. The parties' stipulation concerning rate case expenses, according to the *Joint Stipulation and Agreement*, is in exchange for the stipulation on the rate base and rate of return issues addressed above to eliminate the rate case expenses that would be likely to occur absent the stipulation.

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

1. The determinations of the Prehearing Conference set forth in this Order are made a part of the record in this Cause and shall be binding on all present and future parties of record during the proceedings of this Cause.
2. This Order shall be effective on and after the date of its approval.

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

APPROVED: MAR 30 2011

I hereby certify that the above is a true and correct copy of the Order as approved.



Brenda A. Howe
Secretary to the Commission