

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF INDIANA-AMERICAN WATER)
COMPANY, INC. FOR APPROVAL OF) CAUSE NO. 44052
CHANGES TO RULES AND REGULATIONS)
APPLICABLE TO WATER UTILITY SERVICE) APPROVED:

MAY 02 2012

ORDER OF THE COMMISSION

Presiding Officers:
Kari A.E. Bennett, Commissioner
Aaron A. Schmoll, Senior Administrative Law Judge

On July 29, 2011, Petitioner Indiana-American Water Company, Inc. ("Indiana-American" or "Petitioner") filed its petition and prepared testimony and exhibits constituting its case-in-chief with the Indiana Utility Regulatory Commission ("Commission") in this matter seeking approval of changes to Indiana-American's rules and regulations applicable to water utility service rendered by it. On January 11, 2012, Indiana-American filed a late-filed exhibit consisting of the proofs of publication of notice of the filing of the Petition in this Cause.

Pursuant to notice of hearing 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 held at 10:00 a.m. on August 24, 2011 in Room 222, PNC Center, Indianapolis, Indiana. Petitioner and the OUCC appeared and participated. No members of the general public appeared. On February 21, 2012, Indiana-American notified the Commission that it had reached a settlement in principle with the Indiana Office of Utility Consumer Counselor ("OUCC") regarding Petitioner's proposed rules. On February 24, 2012, Petitioner submitted minor modifications to its proposed rules and supplemental testimony explaining those modifications. The OUCC did not file substantive testimony in response to Petitioner's direct or supplemental testimony.

Pursuant to notice of hearing given as provided by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, an evidentiary hearing in this Cause was held at 9:30 a.m. on March 21, 2012 in Room 222, PNC Center, Indianapolis, Indiana. Petitioner and the OUCC appeared and participated in the evidentiary hearing. No members of the general public appeared. Prior to adjourning, the Presiding Officers convened a technical conference to allow Petitioner, the OUCC and Commission Staff to discuss certain concerns of the Staff with respect to the proposed rules. In anticipation of changes to Petitioner's proposed rules as a result of the technical conference, the Presiding Officers identified Petitioner's Late Filed Exhibit No. 3 and Petitioner's Late Filed Exhibit No. 4 to consist of, respectively, a redline and clean copy of revised rules showing the proposed changes to Petitioner's proposed rules as a result of the technical conference. Immediately following the technical conference, the Presiding Officers admitted these late-filed exhibits into the record of the proceeding with physical production to occur at a later time and adjourned the evidentiary hearing in this Cause.

Based upon the applicable law and evidence, the Commission now finds:

1. **Notice and Jurisdiction.** Due, legal and timely notice of the public hearings conducted herein was given by the Commission as required by law. Indiana-American is a “public utility” within the meaning of that term in Ind. 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.** Indiana-American is an operating public utility incorporated under the laws of the State of Indiana, with its principal office and place of business at 555 East County Line Road, Greenwood, Indiana. Indiana-American is engaged in the provision of water utility service to the public in and around numerous communities throughout the State of Indiana, including Johnson County. Indiana-American also provides sewer utility service in Wabash and Delaware Counties. Indiana-American has charter power and authority to engage in the business of providing such water and sewer utility service under indeterminate permits and franchises, licenses and permits heretofore duly acquired. Indiana-American owns, operates, manages and controls, plant, property, equipment and facilities for the production, treatment, transmission, distribution and sale of water for residential, commercial, industrial, other public authority, and sale for resale purposes, for the provision of public and private fire protection service and for the provision of sewer service.

3. **Relief Requested.** Petitioner proposes changes to its rules and regulations applicable to water service to consolidate them into one set for all Indiana operations primarily to provide consistency in its practices across the state. In addition, Petitioner proposes to reorganize and reformat its rules and regulations to make them easier for customers to understand. Petitioner requests that the Commission approve Petitioner’s proposed rule changes to consolidate, reorganize and reformat its rules and regulations of water service.

4. **Description of Proposed Rule Changes.** Keith E. Morgan, Engineering Manager, Planning for Indiana-American provided direct testimony to give an overview of the consolidation of Indiana-American’s rules and regulations and to explain certain material changes Indiana-American is proposing to its rules and regulations. Mr. Morgan explained that Indiana-American currently has three sets of rules and regulations: one set for its operations in Kokomo, Muncie, Richmond, Seymour, Wabash Valley, Crawfordsville, Franklin, Greenwood, Jeffersonville, New Albany, Newburgh, Noblesville, Shelbyville, Summitville, Wabash and Somerset; a second set for Indiana-American’s Mooresville, Warsaw, Winchester and West Lafayette operations; and a third set applicable to the Northwest Indiana operations. He testified that the proposed consolidated rules are intended to reorganize, reformat and streamline Petitioner’s rules and regulations so that customers will be able to more easily find the information they need and to make the rules more concise and easier to understand.

Mr. Morgan then described the proposed changes to Petitioner’s rules and regulations that he considered “material,” explaining that a material change would be a significant or consequential rule, process or procedure that has been added and does not exist in any form in any of the current rules and regulations or has been deleted from the current rules and regulations. He stated that the addition of a new fee or cost that is not in the current rules and regulations would also be considered a material change. Mr. Morgan sponsored, as Petitioner’s

Exhibit KEM-2, an Excel spreadsheet containing a worksheet for each rule identifying the sections of the existing three sets of rules and regulations that are mapped to that rule, as well as any material changes for that rule.

Mr. Morgan specifically identified material changes to Rule 3 “Requests for Water Service”, Rule 4 “Connecting, Disconnecting and Reconnecting Service”, Rule 9 “Private and Public Fire Service” and Rule 12 “Responsibilities and Rights of Company.” He also described the clarifying change made to Rule 6 “Meters.” With respect to Rule 3, he explained that written applications for general water service are no longer required and such service may be requested in a manner prescribed by Indiana-American, such as by phone. He explained that the proposed change to Rule 6 is intended to clarify that the Customer is responsible to pay for meter boxes or vaults two inches and larger because they require a larger meter box. With respect to the proposed changes to Rule 9, Mr. Morgan stated that Indiana-American will no longer require written applications that also contain contractual terms for private fire service. He explained that because ownership of Premises with private fire service change over time, it is more effective to use Company Rules to describe the terms for private fire service. He also explained that Indiana-American is expanding its reconnection fee to private fire service and adding a disconnect fee and charges for unauthorized or lost water. Mr. Morgan stated Petitioner proposes to delete “gross negligence” from Rule 12.2(a) and limit its liability to “willful misconduct” in regard to furnishing given quantities of water, and interruptions and fluctuations in service. He testified that the inclusion of gross negligence in the rules makes this provision harder to understand and apply because the term “gross negligence” is not well defined. In addition, he explained, Indiana-American believes its liability in regards to these matters should be consistent with Rule 12.2(c) which provides that it is only liable for “willful misconduct” in regard to Main or Service Line breaks, and malfunctioning machinery or facilities and repairs or maintenance of such machinery or facilities, that result in interruption of service.

5. Petitioner’s Supplemental Testimony. Indiana-American met with the OUCC to review the proposed rules consolidation and address any OUCC concerns. As a result of that meeting, Indiana-American submitted proposed modifications to the proposed rules. In supplemental testimony, Mr. Morgan explained the substantive modifications to Indiana-American’s proposed rules. A redline showing the modifications was presented in Petitioner’s Exhibit KEM-S1. The OUCC did not file substantive testimony in response to Petitioner’s Supplemental Testimony and the modified rules proposed in Petitioner’s Supplemental Testimony are uncontested.

With respect to requests for general water service, the OUCC was concerned that the existing language in Rule 3.1(b) could be interpreted as restricting how a customer actually used the water once they drew it from a tap. Mr. Morgan explained that Indiana-American modified the language to reflect the actual purpose of prohibiting unauthorized resale of water or connections of premises which Indiana-American had not approved.

With respect to cash deposits under Rule 3.3, Mr. Morgan explained that the OUCC wanted Indiana-American to be clear that the Commission’s rule on deposits is limited to Residential Customers and to include a cite to the Commission rule where deposits are covered. Mr. Morgan testified that Indiana-American does not presently require cash deposits but that policy is subject to change at some point in the future. He stated that the OUCC and Indiana-

American have agreed informally that Indiana-American would inform the OUCC if and when it ever changed its policy concerning deposits.

Under Rule 4.1 “Connecting Service”, Mr. Morgan testified that the OUCC had voiced a concern that water might be turned on temporarily for testing of repairs in a vacant premise and the plumber might forget to turn the water off after the repair was made. However, Indiana-American was concerned that the OUCC’s proposal would allow customers attempting to steal water to claim inadvertence. The agreed-upon language clarifies that the exception only applies in the case of a licensed plumber who has Indiana-American’s permission, no water is actually used, and Indiana-American is satisfied the water was left on due to inadvertence.

Mr. Morgan explained that Indiana-American modified the language of Rule 4.2(b)(iii) to apply to consumption or connection in order to address the OUCC’s concern noted earlier regarding restricting use of water after it is drawn from the tap. The rule was also modified to clarify when notice is deemed received if it is mailed.

Rule 4.2(e) was modified to reflect the OUCC’s request to clarify that the restriction on Indiana-American terminating service on a day prior to a day on which Indiana-American’s office is closed applies to the call center as well as the local office.

Mr. Morgan testified that at the OUCC’s request, the language in Rule 6.5 (which was based on the Northwest version of Petitioner’s existing rules) has been replaced with the language from the former Indiana American operation rules.

Rule 8.1(a) was modified to include citation to the Commission rule governing main extensions.

Rule 11.1 was modified to authorize a complaint at any time prior to actual disconnection of service. Mr. Morgan explained that that is Indiana-American’s current practice and the modification addressed Indiana-American’s concern that without that qualification, it could hear of a concern about a bill for the first time in the midst of collection proceedings.

Mr. Morgan explained that notice language was removed from Rule 12.1(c) to eliminate the concern that including notice language might modify the earlier rules which already address when service can be disconnected with or without notice.

Finally, with respect to Rule 12.2, Mr. Morgan explained that the OUCC objected to the deletion of liability for gross negligence in Indiana-American’s original proposal. Indiana-American removed that change and modified the rule to reflect the current limitation of liability language in Petitioner’s existing rules.

Mr. Morgan also clarified that the addition of a fee for disconnection of services as well as for the cost to reconnect service later would be a single fee due at the time of reconnection and would only apply to the customer who was disconnected. He explained that if a tenant who is a customer is disconnected for nonpayment, the disconnection fee would not be assessed on a subsequent tenant and new customer requesting service. No change to the proposed language was necessary to reflect this clarification.

6. **Technical Conference.** At the technical conference held on the date of the evidentiary hearing in this Cause, Petitioner discussed the proposed rules with OUCC and Commission Staff. As a result of the technical conference, Petitioner agreed to make additional revisions to clarify its proposed rules and file the revised rules with the Commission, which were identified and admitted into the record as Petitioner's Late-Filed Exhibits 3 and 4.

7. **Commission Discussion and Findings.** The Commission finds the uncontested proposed rules identified as Petitioner's Late-Filed Exhibit No. 4 are reasonable and shall be approved, subject to periodic review by the Commission's Water and Sewer Division. *See Investigation by the Indiana Utility Regulatory Commission, Cause No. 43663 at 109-10 (IURC Nov. 30, 2010).*

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

1. Petitioner's proposed rule changes to consolidate, reorganize and reformat its Rules and Regulations Applicable to Water Service, as set forth in Petitioner's Late-Filed Exhibit No. 4 are hereby approved.

2. Petitioner shall file with the Water Sewer Division of the Commission a copy of its revised Rules and Regulations Applicable to Water Service prior to placing them into effect. Upon approval by the Water Sewer Division, the revised Rules and Regulations Applicable to Water Service shall be effective and shall cancel any prior rules and regulations.

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

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

APPROVED: MAY 02 2012

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



Brenda A. Howe
Secretary to the Commission