

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION) CAUSE NO. 44114 U
OF LAKELAND LAGOON SEWER)
CORP. FOR A NEW SCHEDULE OF) APPROVED:
RATES AND CHARGES) DEC 05 2012

ORDER OF THE COMMISSION

Presiding Officers:

Larry S. Landis, Commissioner
Jeffery A. Earl, Administrative Law Judge

On November 2, 2011, Lakeland Lagoon Sewer Corporation (“Lakeland” or “Petitioner”), filed with the Indiana Utility Regulatory Commission (“Commission”) its Petition for a New Schedule of Rates and Charges pursuant to Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. On November 21, 2011, the Commission’s Water and Sewer Division issued a Memorandum stating that Petitioner’s application was incomplete. On January 9, 2012, Petitioner filed additional information in support of the application, including a copy of its notice to customers as required by 170 IAC 14-1-2(b). Also on January 9, 2012, the Commission’s Water and Sewer Division issued a Memorandum stating that Petitioner’s application was still incomplete. On February 9 and 10, 2012, Petitioner filed additional information in support of the application. On March 6, 2012, the Commission’s Water and Sewer Division issued a Memorandum stating that Petitioner’s application was deemed complete.

On June 4, 2012, as required by 170 IAC 14-1-4(a), the Indiana Office of Utility Consumer Counselor (“OUCC”) filed its report, recommending approval of the application and also recommending that Petitioner investigate the value of joining InWARN. On August 15, 2012, the Commission’s Water and Sewer Division conducted an on-site review of Petitioner’s collection system.

Pursuant to Ind. Code § 8-1-2-61.5, a formal public hearing is not required in rate cases involving small utilities with fewer than 5,000 customers, unless a hearing is requested by at least ten customers, a public or municipal corporation, or by the OUCC. No requests for a hearing have been received by the Commission nor has the Commission determined the need for a hearing in this Cause. Accordingly, no hearing has been held.

Based upon the applicable law and the evidence presented herein, the Commission now finds as follows:

1. Commission Jurisdiction and Notice. The evidence presented establishes that Petitioner published legal notice of the filing of this small utility rate case in accordance with applicable law and that Petitioner has given proper notice to its customers of the nature and extent of the proposed rate increase. The Commission thus finds that due, legal, and timely notice of this matter was given and published as required by law. Further, the Commission finds the Application satisfies all of the requirements of Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. Therefore, the

Commission has jurisdiction over the Petitioner and the subject matter of this proceeding, and may issue an Order in this Cause based upon the information filed as provided by 170 IAC 14-1-6.

2. **Petitioner's Characteristics.** Petitioner is a non-profit sewer utility that provides service to approximately 38 residential customers who reside either on or near Lakeland Lake in Floyd County, Indiana. Lakeland collects wastewater from its customers and conveys it to the Town of Georgetown, Indiana ("Georgetown") for treatment. Because Petitioner operates as a not-for-profit entity, its revenue requirement is determined by Ind. Code § 8-1-2-125.

3. **Test Period.** The test period selected for determining Petitioner's revenues and expenses reasonably incurred in providing water utility service to its customers includes the twelve (12) months ending December 31, 2010. With adjustments for changes that are fixed, known and measurable, the Commission finds this test period is sufficiently representative of Petitioner's normal operations to provide reliable data for ratemaking purposes.

4. **Background and Relief Requested.** Petitioner's current rates and charges were placed into effect following the Commission's February 2, 2000 Order in Cause No. 41597-U. In that case, the Commission authorized Lakeland to charge a flow charge of \$3.54 per thousand gallons of water and a monthly base charge of \$59.52. In this Cause, Lakeland requests permission to charge a flow charge of \$8.56 per thousand gallons of water and a monthly base charge of \$30.34. Lakeland also seeks approval, pursuant to our Final Order in Cause No. 39549, of Georgetown's proposed new fee schedule, which is charged to Lakeland, of \$8.56 per thousand gallons of water with a monthly base charge of \$468.75.

5. **OUCC Report.** The OUCC filed its Report, which was prepared by Scott Bell and Charles Patrick. The OUCC Report states that although our Order in Cause No. 41597-U authorized Lakeland to charge a \$59.52 monthly base charge, Lakeland has chosen to actually charge its customers only \$18.00 per month. Therefore, customers using 5,000 gallons of water per month paid a total monthly charge of only \$35.70 instead of the \$77.22 that should have been paid under the authorized rates. Aside from this issue, the OUCC agreed with Petitioner's revenue requirement calculation and recommended the Commission approve the requested rate increases.

The OUCC Report also discussed the benefits of the InWARN program, which offers the advantage of a united response to a disaster or other emergency. InWARN offers a committed structure with manpower, supplies, and specialized assistance from a number of utilities in the event of a tornado, flood, or other catastrophic event. The OUCC Report encouraged Lakeland to participate in InWARN and provided links to more information.

Last, the OUCC Report reviewed the proposed rates that Georgetown charges to Lakeland. The OUCC Report discussed the Georgetown Town Council Ordinance that authorized the charges and the Rate Study prepared by H.J. Umbaugh & Associates that was prepared on behalf of Georgetown in support of the rates. Based on its review, the OUCC recommended that the Commission approve the rates charged to Lakeland by Georgetown.

6. **Commission Findings.**

A. **Georgetown's Rates.** In the October 25, 1995 Final Order in Cause No. 39549 the Commission determined that it has continuing jurisdiction over the interconnection of the

Lakeland and Georgetown systems and, as a result, over the rates charged by Georgetown. The Commission clarified its decision in its October 9, 1996 Order on Rehearing in that Cause. The Court of Appeals of Indiana affirmed the Commission's Orders in *Town of Georgetown v. Ind. Util. Regulatory Comm'n*, 694 N.E.2d 783 (Ind. Ct. App. 1998). The rates charged by Georgetown for treatment of Lakeland's wastewater were approved by Georgetown's Town Council on July 11, 2011. The rates are supported by a rate study performed by H.J. Umbaugh & Associates. The OUCC recommended approval of Georgetown's Rates. Therefore, based on the evidence, we find that the rates charged by Georgetown for treatment of Lakeland's wastewater are reasonable.

B. Lakeland's Rates and Revenue Requirements. Ind. Code § 8-1-2-125(d) allows a not-for-profit utility to earn a just and reasonable charge that will produce sufficient revenue to pay all legal and other necessary expenses incident to the operation of the utility's system. Lakeland's requested rates are based primarily on the charge it pays to Georgetown for treatment of its wastewater, which we have already determined are reasonable. The revenue from the remainder of Lakeland's proposed rates will cover operating expenses and the future replacement of infrastructure. Lakeland proposes the following revenue requirements:

<u>Revenue Requirements:</u>	Per Petitioner
Extensions and Replacements	\$ 4,000
Operation & Maintenance Exp.	4,265
Purchased Wastewater Treatment	22,653
Taxes Other Than Income	-
Working Capital	-
Debt Service	-
Debt Service Reserve	-
Total Revenue Requirements	<u>30,918</u>
Less: Interest Income	-
Net Revenue Requirements	<u>30,918</u>
Less: Current Revenues	<u>13,069</u>
Revenue Increase Required	17,849
Add: Additional IURC Fee	21
Net Revenue Increase Required	<u><u>\$ 17,870</u></u>
 Recommended Percentage Increase	 <u><u>136.74%</u></u>

Based on the evidence presented, we find that Lakeland's revenue requirements are reasonable and that Lakeland should be allowed to earn revenues sufficient to cover its operating expenses. As demonstrated above, Lakeland's cash requirements exceed its revenues by \$17,870. Therefore, we find that Lakeland's rates should be increased in amount sufficient to generate an additional \$17,870.

In Cause No. 41597-U, we authorized Lakeland to charge a flow charge of \$3.54 per thousand gallons of water and a monthly base charge of \$59.52. However, the evidence in this case shows that Lakeland decided, without Commission approval, to charge a monthly base charge of only \$18.00. It is unlawful for any public utility to charge a higher *or lower* rate than that approved

by the Commission without subsequent Commission approval. Ind. Code § 8-1-2-44. As required by Ind. Code § 8-1-2-125(d), the rates authorized by this Commission for Lakeland are deemed to be sufficient to pay for maintenance and repair costs, operating charges, working capital, extensions and replacements, *et al.*, that are incident to the furnishing of reasonably adequate utility services and facilities to Lakeland's customers. Failure to collect sufficient revenues can lead to poor maintenance and a failure to perform necessary upgrades to the system. Should Lakeland determine the rates and charges authorized by the Commission are in excess of its needs, it may petition the Commission for a reduction of those rates: it may not simply charge a lower rate than that authorized. We caution Lakeland that the Commission will closely monitor its annual report filings to ensure that its rates and charges comply with those authorized in this Order.

7. **Effect on rates.** Pursuant to our Final Order in Cause No. 41597-U, an average customer using 5,000 gallons of water per month should have been paying \$77.22 per month. As such, the rates proposed in this Cause would result in a decrease of 5.28% to \$73.14 per month. However, as the evidence shows, an average customer using 5,000 gallons of water per month has actually been paying \$35.70 per month. Therefore, the average customer will experience a monthly bill increase of \$37.44 or 104.87% to \$73.14 per month.

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

1. Consistent with the findings above, Lakeland Lagoon Sewer Corp. is authorized to increase its rates and charges by \$17,870 annually, so as to produce a net annual revenue of \$30,918, which represents a 136.74% across-the-board increase in revenues.
2. Petitioner shall file with the Water/Sewer Division of the Commission its new schedules of rates and charges that place into effect the rate increase authorized herein. Upon approval by the Water/Sewer Division, Lakeland's revised rate schedules shall immediately take effect and cancel all of Lakeland's previously approved schedules of rates and charges.
3. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: DEC 05 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