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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF) CAUSE NO. 44115 U
J.B. WATERWORKS FOR A NEW)
SCHEDULE OF RATES AND CHARGES.) APPROVED: MAY 09 2012

ORDER OF THE COMMISSION

Presiding Officers:
Carolene Mays, Commissioner
Gregory R. Ellis, Administrative Law Judge

On November 4, 2011, J.B. Waterworks, Inc. ("J.B. Waterworks" or "Petitioner") filed its application for a change in rates and charges (the "Application") with the Indiana Utility Regulatory Commission ("Commission") pursuant to the provisions of Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. The rate change being sought by J.B. Waterworks is an increase of 51.54% or \$16,317 above its current rates. J.B. Waterworks subsequently filed on November 18, 2011, proofs of the notice it had published describing the filing of its Application as required by 170 IAC 14-1-2(b). On December 20, 2011, the Commission determined that the Application was complete.

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 Indiana Office of Utility Consumer Counselor ("OUCC"). On January 13, 2012, the Commission received notification of a request by more than ten customers of J.B. Waterworks for a public hearing. The Commission granted the request. Pursuant to notice duly published as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, a public field hearing was held in this Cause on February 16, 2012 at 6:00 P.M., in the City of La Porte Council Chambers, 801 Michigan Avenue, La Porte, Indiana.

On March 7, 2012, the OUCC filed its report ("Report") with the Commission as required by 170 IAC 14-1-4(a). The Report detailed its review of the Application and made several recommendations to the Commission concerning the relief requested by J.B. Waterworks. J.B. Waterworks did not file an objection or a response to the OUCC's Report as permitted at 170 IAC 14-1-4(b).

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

1. **Commission Jurisdiction and Notice.** The evidence presented by J.B. Waterworks in this Cause establishes that legal notice of the filing of the Application was published in accordance with applicable law, and that J.B. Waterworks gave proper notice of the nature and extent of the relief it is seeking to its customers. Therefore, the Commission finds

that due, legal, and timely notice of the matters in this proceeding was given and published as required by law.

J.B. Waterworks is an Indiana public utility, provides water service to fewer than 5,000 retail customers and does not extensively serve another utility. The Application satisfies all of the requirements of Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. The Commission, therefore, has jurisdiction over the Petitioner and subject matter of this case.

2. Petitioner's Characteristics. Petitioner is an investor-owned public utility organized and existing under the laws of the State of Indiana. J.B. Waterworks was formed in 1977 by the Jongkind Family to provide water services to the residents of the Jongkind Park subdivision located near La Porte, Indiana. Petitioner is engaged in the business of providing water utility service to approximately 120 residential customers in La Porte County, Indiana. Petitioner renders such service by means of utility plant, property, equipment and facilities owned, operated, managed and controlled by it, which are used and useful for the provision of utility service.

Petitioner's water system consists of approximately 4,500 feet of PVC mains. The utility operates four water wells. Petitioner disinfects the water with liquid phosphate and liquid chlorine. The utility does not filter, soften, aerate or treat the water with fluoride. The primary storage for the water system is a 70,000 gallon concrete ground storage tank located near the treatment plant. The utility has a 1,000 gallon steel pressure tank. There are no fire hydrants in the system. Flushing is conducted twice a year. All meters are manual-read units installed in the homes. Per their 2010 Annual Report, Petitioner has a 10.8% water loss rate. Peter Jongkind is Petitioner's sole shareholder. Mark Jongkind serves as President of the utility and is currently the only paid employee. Petitioner uses contractors for major repairs and excavating.

3. Existing Rates and Relief Requested. J.B. Waterworks' existing rates and charges were established in the Commission's April 29, 1992 Order in Cause 39231-U. In its Application, J.B. Waterworks requested an across-the-board increase of 51.54% or \$16,317 in its rates and charges in order to recover increased operating and maintenance costs, primarily increases in wages and salaries, and to fund certain improvements. Petitioner has not requested changes to non-recurring charges and a cost of service study was not provided.

4. Test Period. The test period selected for determining J.B. Waterworks' 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 that this test period is sufficiently representative of J.B. Waterworks' normal operations to provide reliable data for ratemaking purposes.

5. Rate Base and Rate of Return. An investor-owned utility calculates rates by first determining the return on rate base. This calculation determines what the net operating income ("NOI") should be in order to provide an opportunity for a reasonable return to the shareholders. Next, a determination is made as to the amount of the adjusted or *pro-forma* operating income based on the utility's current rates. The *pro-forma* amounts are based upon the known test year revenues and expenses updated to include changes that are fixed within the time

period, known to occur and are recurring, and are measurable in amount. By subtracting the NOI determined through the adjustment process from the NOI required by the return on rate base, the dollar amount of the increase needed to achieve the NOI that is expected to provide a reasonable return to the shareholders can be determined. The increase in NOI is then adjusted for taxes and fees related to the increased revenue and income.

J.B. Waterworks' Application shows an original cost rate base of \$23,182 using utility plant in service of \$117,904 and accumulated depreciation of \$98,705, as shown on Petitioner's financial statements for the period ending December 31, 2010. J.B. Waterworks also included an annual working capital revenue requirement of \$3,983 in its rate base while the OUCC asserts that \$3,943 is sufficient to provide the working capital needed by J.B. Waterworks. The resulting Total Original Cost Rate Base proposed by the OUCC is \$23,142. For purposes of this proceeding, the Commission finds Petitioner's rate base to be \$23,142. The OUCC Report notes that J.B. Waterworks did not provide a study to support its proposed cost of equity, but accepts J.B. Waterworks weighted cost of capital of 10.00%. Applying a rate of return of 10.00% to J.B. Waterworks' fair value rate base of \$23,142 would result in a NOI of \$2,314.

J.B. Waterworks proposed a net revenue requirement of \$12,481 for an overall rate increase of 51.54%. The OUCC proposed a net revenue requirement of \$12,150 or an overall rate increase of 50.16%. The table below summarizes the revenue requirements as presented by both J.B. Waterworks and the OUCC:

<u>Revenue Requirements:</u>	<u>Petitioner</u>	<u>OUCC</u>
Fair value or Original Cost Rate Base	\$ 23,182	\$ 23,142
Times: Weighted Cost of Capital	10.000%	10.000%
Required NOI	2,318	2,314
Less NOI at Present Rates	(10,163)	(9,835)
Increase in NOI required	12,481	12,150
Gross Revenue Conversion Factor	130.7300%	130.7300%
Operating Revenue Increase	<u>\$ 16,317</u>	<u>\$ 15,883</u>
Operating Revenue Increase	16,317	15,883
Water Revenues at Current Rates	<u>31,662</u>	<u>31,662</u>
Percent Increase in Rates	<u>51.54%</u>	<u>50.16%</u>

6. **Accounting Adjustments.** Based on its review of J.B. Waterworks' books and records, the OUCC, in its Report, accepts Petitioner's calculations for operating revenues and operating and maintenance expense adjustments for: Salary and Wages Expense, Maintenance Expense, IURC Fee, Payroll Tax, Property Tax and Utility Receipts Tax. The OUCC proposed accounting adjustments in its Report to Rate Case Expense, Depreciation Expense, Other Taxes and Licenses and State and Federal Income Taxes. The adjustments are outlined in the table below:

	<u>Per</u> <u>Applicant</u>	<u>Per</u> <u>OUC</u>	<u>OUC</u> <u>More (Less)</u>
Rate Case Expense	\$ 800	\$ 480	\$ (320)
Depreciation Expense	716	964	248
Other Taxes and Licenses (IDEM Fee)	-	(350)	(350)
State Income Tax	(1,071)	(1,035)	36
Federal Income Tax	(1,794)	(1,736)	58
Total Operating Expenses	<u>\$ (1,349)</u>	<u>\$ (1,677)</u>	<u>\$ (328)</u>

A. Rate Case Expense. The OUC proposed a five year amortization period vs. Petitioner's three year amortization period due to the infrequency of Petitioner's rate case filings. Petitioner's last rate case was filed in July 1991. We find that a five year amortization period is more appropriate.

B. Depreciation Expense. The OUC proposed an adjustment to Petitioner's depreciation expense. The OUC noted that Petitioner failed to deduct the value of its real estate from Utility Plant in Service before applying the composite depreciation rate in calculating its depreciation expense. The OUC proposed a 2.0% depreciation rate, instead of the 1.7% composite depreciation rate used by the Petitioner since J.B. Waterworks is a complete water system and does not purchase its water. We find that the OUC adjustments to Depreciation Expense are correct.

C. Other Taxes and Licenses. The OUC recommended a computation change in Petitioner's Other Taxes and Licenses Expense noting that Petitioner expensed the Indiana Department of Environmental Management ("IDEM") fee twice. This was identified during the OUC's field audit. We find that the OUC adjustment should be adopted.

D. Income Taxes. The OUC proposed an adjustment to Petitioner's calculated Indiana State Income Tax and Federal Income Tax. The OUC agreed with Petitioner's methodology in calculating income taxes noting the differences between Petitioner's Federal and State Income Tax calculations and the OUC's proposed calculations are a result of other adjustments explained throughout the OUC's Report. We find that the OUC income tax adjustments are correct.

7. **Public Field Hearing and Follow-Up**. Approximately 12 people out of a customer base of 120 connections attended the Commission's Public Field Hearing at the City of La Porte Council Chamber in La Porte, Indiana on Feb. 16, 2012. Four customers presented oral testimony and five customers provided written comments. Most of the customers who made comments said the Petitioner's water is hard, has coloration right out of the faucet and has sediment or sand due to the water not being filtered.

Following the Field Hearing, the OUC served J.B. Waterworks with several written questions and information requests regarding water quality and other conditions. The OUC's Report summarized J.B. Waterworks' responses.

A. Treated Water. The OUCC reviewed several Monthly Reports of Operations for 2011, which J.B. Waterworks routinely has to submit to IDEM on sample results for treated water. The results appeared to be satisfactory including measurements of chlorine residual taken randomly in the distribution system.

B. System Construction and Maintenance. The OUCC determined that J.B. Waterworks has regularly added improvements and invested approximately \$70,000 in construction and significant maintenance activities since Petitioner's last rate case 20 years ago. The construction and maintenance has included the purchase of computer and software, chemical feed replacements, high service pump work, the installation of a pressure tank, installation of back-up generator, oil-less compressor, replacement of hydrants, well pump replacement and maintenance, reservoir and pump house work, fence for pump house facilities, purchase of tools and test equipment, valve repairs, well field excavation and tree trimming, well head protection plan, and other miscellaneous improvements. The OUCC's Report concluded that J.B. Waterworks has regularly added improvements and accomplished major repairs since its last rate case.

C. Water Quality. The OUCC's Report indicated that it discussed turbidity and discoloration of water with the owner of the utility. The OUCC noted that two customers provided the Commission with water samples at the field hearing illustrating the possible existence of manganese, iron, and sediment in the treated water of J.B. Waterworks' system. J.B. Waterworks acknowledged that turbidity and discoloration is common in the utility's system. The OUCC discussed its inquiry of Petitioner's investigation into the option of adding filtration to its water system and that J.B. Waterworks indicated that filtration was considered years ago but was deemed too expensive at that time. J.B. Waterworks stated that it would re-examine filtration again, in light of modern and less expensive options now available. Petitioner also indicated that the City of La Porte's water system has recently expanded its mains which will soon be within one mile of J.B. Waterworks' system. Petitioner indicated that it may consider purchasing water from the City of La Porte, but would have to take into account connecting the facilities, the unit price of water, the capacity of La Porte's distribution system, wells and treatment facilities, and the actual quality of La Porte's water.

8. OUCC Recommendations. The OUCC made several recommendations in its Report. Those recommendations are summarized below.

A. Rate Increase. The OUCC's Report reflects the proposed adjustments in its recommendation that J.B. Waterworks be allowed to increase rates by 50.16% or \$15,883 compared with the 51.54% or \$16,317 increase requested by the Petitioner.

B. Water Loss Mitigation. The OUCC recommended that J.B. Waterworks establish a regular program of monitoring its water loss, locating leaks and submitting separate water loss reports for the calendar years 2012 and 2013 as an attachment to the respective Annual Reports to the Commission.

C. Pressure Tank Inspection. The OUCC also recommended that J.B. Waterworks schedule an inspection of its 1,000 gallon steel pressure tank to determine the work required and costs if the condition indicates an immediate need for rehabilitation.

D. Exploration of Water Filtration. The OUCC recommended the utility explore options to improve water quality by either providing filtration or by purchasing water wholesale and reporting the findings to the Commission and the OUCC by April 1, 2013.

9. Commission Discussion and Findings. The evidence of record indicates that the Parties have provided the Commission with sufficient information to determine that the public's interest can best be served by accepting J.B. Waterworks' small utility filing, as modified by the OUCC's recommended adjustments. Therefore, based on the evidence presented, the Commission finds that an across-the-board rate increase of 50.16% or \$15,883 should be approved for J.B. Waterworks. The results of a residential customer using 5,000 gallons per month would be an increase of \$9.16 per month from \$18.26 to \$27.42 based on the approved rate increase.

The Commission notes that while the number of customer complaints regarding water quality at the Field Hearing was minimal, they accounted for approximately 10% of Petitioner's customers. Furthermore, water quality, based on IDEM reports, is satisfactory. However, because J.B. Waterworks does not currently filter, soften, or aerate the water, solutions to resolve water quality complaints may be expensive given the size of the utility. Thus, it would not be in the public interest to order any solutions without further study and input from customers.

Based upon the evidence of record, we find that J.B. Waterworks shall investigate the feasibility and costs of potential process improvements to improve water quality or purchase water from the City of La Porte. J.B. Waterworks should solicit feedback from its customers, as to their willingness to pay future rate increases in order to make required process improvements that will improve water quality. In addition, J.B. Waterworks shall submit a written report summarizing its findings to the Commission and the OUCC no later than April 1, 2013.

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

1. Consistent with the above findings, J.B. Waterworks is hereby authorized to increase its rates and charges by \$15,883 annually, so as to produce total annual revenue of \$47,545 which represents a 50.16% increase in its water service rates and charges.

2. Prior to placing into effect the rates and charges approved herein, J.B. Waterworks shall file with the Water/Sewer Division of the Commission a schedule of rates and charges in a manner consistent with this order and the Commission's rules for filing such schedules. When approved by the Commission's Water/Sewer Division, such schedule shall cancel all prior rates and charges.

3. J.B. Waterworks shall investigate the feasibility and costs of potential process improvements that would improve the quality of its water as well as the possibility of purchasing

water from the City of La Porte. As part of its investigation, J.B. Waterworks should solicit feedback from its customers as to their willingness to pay future rate increases in order to make process improvements that would improve water quality. J.B. Waterworks shall submit a summary of its findings to the Commission and the OUCC no later than April 1, 2013.

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

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: MAY 09 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**