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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF THE CITY OF SOUTH BEND, )  
INDIANA FOR APPROVAL OF MODIFICATIONS )  
TO PETITIONER'S WATER LINE INSURANCE ) CAUSE NO. 44250  
PROGRAM, INCLUDING THE RATE APPLICABLE )  
THERETO, SO AS TO MAKE THE SAME ) APPROVED:  
APPLICABLE TO ALL OF THE PETITIONER'S )  
CUSTOMERS )

FEB 13 2013

ORDER OF THE COMMISSION

**Presiding Officers:**

**David E. Ziegner, Commissioner**

**Loraine L. Seyfried, Chief Administrative Law Judge**

On September 20, 2012, the City of South Bend, Indiana ("Petitioner") filed its Petition with the Commission seeking approval of modifications to Petitioner's Water Line Insurance Program ("WLIP"), including the rate applicable thereto, so as to make the same applicable to all of the Petitioner's customers.

Petitioner filed testimony and exhibits constituting its case-in-chief on September 21, 2012. On November 20, 2012, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its direct testimony and exhibits.

Pursuant to notice given and published as required by law, an evidentiary hearing was held on January 10, 2013 at 1:30 p.m. in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. The testimony and exhibits of Petitioner and the OUCC were offered and admitted without objection. No member of the public appeared at the hearing.

Based upon the applicable law and evidence herein, and being duly advised in the premises, the Commission now finds:

**1. Statutory Notice and Commission Jurisdiction.** Due, legal and timely notice of the public hearing conducted by the Commission in this Cause was given and published as required by law. Petitioner owns and operates a "municipally owned utility" as that phrase is used in Ind. Code § 8-1-2-1(h). Petitioner seeks approval to changes in its rates and charges pursuant to Ind. Code §§ 8-1-2-42 and 8-1.5-3-8. Accordingly, the Commission has jurisdiction over Petitioner and the subject matter of the Petition.

**2. Petitioner's Characteristics.** Petitioner is a municipality that owns and operates plant and equipment within the State of Indiana for the production, transmission, delivery, and furnishing of water to the public within and around the City of South Bend, Indiana.

3. **Relief Requested.** Petitioner seeks approval to modify its WLIP, including the rate applicable thereto, so as to make the same applicable to all of the Petitioner's customers.

4. **Evidence of the Parties.** Petitioner's witness Mr. John R. Skomp, a Partner with Crowe Horwath LLP, provided background concerning the WLIP and Petitioner's request to modify the charge. He stated the Water Leak Insurance charges under the Water Service Fund section of the Petitioner's tariff funds Petitioner's WLIP, which is a mandatory program for all of the Petitioner's customers except for the Clay Customers.<sup>1</sup> The revenue is intended to cover the cost of repairing the customer service line connecting the customer's home to the utility's main. He noted that the utility's system is structured such that customers own and are responsible for the line connecting their house to the distribution mains. He stated that because most of the utility's meters are located in the customer's basements, customers are not charged for water leaking from the customer's service line as it precedes the meter. And, because of the costly nature of service line repairs, the utility's customers have little incentive to repair service line leaks.

Mr. Skomp testified that the WLIP ensures Petitioner has the funds available to fix leaks and breaks in the customer's connection line. He noted the Commission's Order in Cause No. 42779 established a fee of two dollars (\$2.00) per month for customers inside the corporate boundaries of the City of South Bend ("City Limits"). Although the WLIP was intended to be self-supporting, Mr. Skomp noted that the utility's general revenues have been used to support the program for many years.

Mr. Skomp testified that Petitioner is seeking to modify its tariff language concerning the monthly charge for the Leak Insurance. He noted that in Cause No. 42779, Petitioner's present rate design, which includes a twenty percent (20%) outside City Limit surcharge, was opposed by the Clay Customers and the OUCC. The result in that case was a continuation of the outside City Limit surcharge, a subdocket (which also resulted in a continuation of the surcharge), and an obligation to file a cost of service study in Petitioner's next rate case. The Commission also ordered that the WLIP payment be included on Petitioner's tariff and approved the mandatory nature of the program. Mr. Skomp further explained that although Petitioner has maintained its historical billing practice regarding the Clay Customers since the Order in Cause No. 42779, the current tariff language applies the Leak Insurance to inside City Limit customers only.

Mr. Skomp provided a copy of an October 25, 2011 Resolution of the Clay Township Board requesting that Petitioner make its WLIP universal for all customers. Petitioner's witness Mr. Edward Herman, the Director of the City of South Bend Water Works Department, also sponsored the results of a survey concerning the Board's request, which was included in all Clay Customers' water bills. According to Mr. Herman, 519 surveys were returned in support of the WLIP program, eleven were returned in opposition and five were returned without either option selected. Petitioner's Exhibit EH-1 contains a copy of each returned survey. In addition, Mr. Herman testified that Petitioner held public meetings to discuss the implementation of the WLIP across the entire customer base, including the Clay Customers. The meetings were attended by the Clay Township Trustee, Robbie M. Thomas, members of the Township Advisory Board,

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<sup>1</sup> The Clay Customers are a group of residential customers formerly served by Clay Utilities, Inc.

representatives from the City of South Bend Water and members of the St. Joseph County Council to answer questions. He testified that approximately, 120-140 individuals attended these meetings.

The OUCC's witness Charles E. Patrick, a Utility Analyst, testified the OUCC supports extension of the WLIP for all South Bend customers. Mr. Patrick noted the Commission's reasons for directing Petitioner to place the WLIP on its tariff (i.e., the unique ownership structure of the customer service line prior to the meter and the disincentive for customers to make repairs) and addressed the loss of revenues from the WLIP. He indicated that the OUCC was not concerned with the loss of revenues because Petitioner is replacing defective portions of the distribution system, which improves system performance and reduces operation and maintenance costs caused by lost water.

Mr. Patrick noted that Petitioner issued 2,190 surveys and 535 were returned for a response rate of 24.43%. He also testified the results of the survey provided a confidence interval of 1.61 with a 95% confidence level that the Clay Customers support having the program. Mr. Patrick recommended the Commission approve extending the WLIP to all customers, but require Petitioner to include in its Annual Report filed with the Commission a summary by month of the revenue received and the expense by vendor associated with the WLIP.

**5. Commission Discussion and Findings.** As noted by the parties, the Commission approved Petitioner's WLIP as a mandatory program in Cause No. 42779 based upon "Petitioner's unique ownership structure and the disincentive for customers to repair their own water line." In this proceeding, Petitioner seeks to modify its WLIP to include the Clay Customers.<sup>2</sup> Petitioner's Exhibit 1 demonstrates the ownership structure and location of the water meters discussed in Cause No. 42779 also apply to the Clay Customers.

In addition to the Resolution of the Clay Township Board requesting Petitioner consider expanding the WLIP to the Clay Customers, Petitioner hosted public meetings on March 6, 2012 and April 12, 2012 to answer questions concerning its WLIP. Petitioner also mailed surveys to the Clay Customers to determine their interest in the WLIP.<sup>3</sup> Both Petitioner and the OUCC indicated the survey results demonstrate general support for extending the WLIP to Clay Customers.

Therefore, based on the evidence presented, the Commission finds that the proposed expansion of the WLIP to all of Petitioner's customers is reasonable and in the public interest. The WLIP ensures that funds are available to fix leaks and breaks in service lines for which

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<sup>2</sup> Petitioner's WLIP currently includes approximately 37,240 of its customers. The Clay Customers would be approximately an additional 2,180 customers.

<sup>3</sup> While we have some concern that certain words used in the survey (such as "opportunity for water leak insurance" and "option to participate") may lead one to conclude Petitioner was inquiring about an interest to participate in a voluntary as opposed to a mandatory program, the survey also contains other words (such as "in favor of, or against, participating in the water leak insurance") that tend to mitigate that impression. In the future, we encourage Petitioner to thoroughly scrutinize written communications with customers to ensure messages are clearly and accurately conveyed.

customers would otherwise be responsible and may have little incentive to repair due to cost. Because the Clay Customers are similarly situated to customers already participating in the WLIP, we find that Petitioner should be authorized to modify its WLIP, including the rate applicable thereto, so as to make the same applicable to all of Petitioner's customers. We further find that the reporting requirements recommended by the OUCC are reasonable and should be made by Petitioner. In addition, the Commission finds that Petitioner shall include in all Clay Customer bills where the charge for the WLIP first appears information concerning, at a minimum, the results of the survey conducted in March 2012, the approval requested and received in this Cause and details concerning the WLIP.

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

1. The City of South Bend, Indiana, shall be and hereby is authorized to modify its WLIP, including the rate applicable thereto, so as to make the same applicable to all of Petitioner's customers.
2. Prior to placing in effect the above-authorized change, Petitioner shall file with the Water/Sewer Division of the Commission a revised tariff reflecting this change.
3. Petitioner shall include in its subsequent Annual Reports a summary by month of the revenue received and the expense by vendor associated with the WLIP.
4. In accordance with Ind. Code § 8-1-2-70, Petitioner shall pay the following itemized charges within twenty (20) days from the date of this Order to the Secretary of the Commission, as well as any additional costs which were or may be incurred in connection with this Cause.

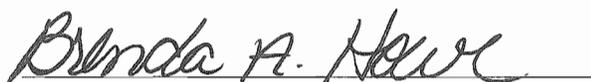
Commission Charges	\$ 913.97
OUCC Charges	\$ 761.56
Legal Advertising Charges	\$ <u>179.53</u>
<b>TOTAL</b>	<b>\$1,855.06</b>

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

**ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:**

**APPROVED: FEB 13 2013**

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



**Brenda A. Howe  
Secretary to the Commission**