

ORIGINAL

Handwritten signatures and initials: TB, AB, CM, Jack

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE OUCC'S)	
REQUEST FOR INVESTIGATION OF)	CAUSE NO. 44262
THE UTILITY OPERATIONS OF)	
CENTURIAN CORPORATION AND MTA,)	APPROVED:
LLC.)	JAN 09 2013

PREHEARING CONFERENCE ORDER OF THE COMMISSION

Presiding Officers:

James D. Atterholt, Chairman

Jeffery A. Earl, Administrative Law Judge

On October 26, 2012, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its petition with the Indiana Utility Regulatory Commission ("Commission") in this matter.

Pursuant to notice and as provided for in 170 IAC 1-1.1-15, a Prehearing Conference in this Cause was held at 10:00 a.m. on December 20, 2012, in Hearing Room 224, 101 West Washington Street, Indianapolis, Indiana. Proofs of publication of the notice of the Prehearing Conference have been incorporated into the record and placed in the official files of the Commission. Also on December 20, 2012, the Indiana State Department of Health ("ISDH") and the Indiana Department of Environmental Management ("IDEM") filed a Petition to Intervene in this Cause, which the Presiding Officers granted on the record at the Prehearing Conference. The OUCC, ISDH, and IDEM appeared and participated at the Prehearing Conference. Mr. Richard Ostergren, the owner of MTA, LLC and Centurion Corporation (collectively "Respondents"), and Mr. Gary Radtke, the utility's operator, participated in the Prehearing Conference by telephone without the assistance of counsel. No members of the general public appeared.

In response to an issue raised by the OUCC, the Presiding Officers discussed with Mr. Ostergren and Mr. Radtke the need to be represented by counsel in these proceedings. 170 IAC 1-1.-7(b) states: "The interest of another person *or entity* may only be represented by an attorney admitted to practice before the Indiana supreme court in good standing." (emphasis added). Because this investigation involves the utility operations of Centurion Corporation and MTA, LLC, the Commission's rules require those entities to be represented by an attorney. Therefore, the Presiding Officers strongly advise Mr. Ostergren to retain counsel for this proceeding. In the event Mr. Ostergren is unable to retain counsel, he shall inform the Commission of the reasons for the inability in a formal filing in this Cause.

Prior to the opening of the record and with the consent of all parties in attendance, an informal discussion was held regarding procedural and scheduling matters in this Cause. The agreement of the parties was then read into the record.

Based upon the agreement of the parties, the Commission now enters the following Findings and Order which shall become a part of the record in this proceeding:

1. **OUCC's Prefiling Date.** The OUCC shall prefile with the Commission the prepared testimony and exhibits constituting its case-in-chief on or before January 23, 2013. Copies of same shall be served upon all parties of record.

2. **Respondents' and Intervenors' Prefiling Date.** The Respondents and any Intervenors may prefile with the Commission the prepared testimony and exhibits constituting their respective cases-in-chief on or before February 25, 2013. Copies of same shall be served upon all parties of record.

3. **Cross-Answering Testimony.** The Respondents and any Intervenors may prefile with the Commission any cross-answering testimony and exhibits responding to the cases-in-chief prefiled by parties other than Petitioner on or before March 27, 2013. Copies of same shall be served upon all parties of record.

4. **OUCC and Respondents' Rebuttal Prefiling.** The OUCC shall prefile with the Commission its prepared rebuttal testimony on or before April 12, 2013. In addition, the Respondents may prefile evidence in rebuttal to the cross answering testimony filed by any Intervenors on or before April 12, 2013. Copies of same shall be served upon all parties of record.

In the event that Respondents' rebuttal filing contains new information to which the OUCC has not had an opportunity to respond, the OUCC may file a motion for permission to respond to Respondents' rebuttal filing.

5. **Witness Order.** Parties shall submit their intended order of witnesses to the Commission and the parties in writing at least 72 hours in advance of the evidentiary hearing.

6. **Evidentiary Hearing on the Parties' Cases-In-Chief.** The cases-in-chief of the OUCC, Respondents, and any Intervenors shall be presented in an evidentiary hearing to commence at 10:30 a.m. on April 29, 2013, in Hearing Room 222, 101 West Washington Street, Indianapolis, Indiana. At such time, the direct evidence of the respective parties should be presented and their respective witnesses examined. Thereafter, the OUCC should present its prefiled rebuttal evidence as well as any additional evidence rebutting evidence adduced on cross-examination of the Respondent's or Intervenors' witnesses. If the parties reach settlement, the agreement and supporting testimony and exhibits shall be submitted to the Commission five (5) business days prior to the Evidentiary Hearing.

7. **Sworn Testimony.** Any witness testimony to be offered into the record of this proceeding shall be made under oath or affirmation. In accordance with 170 IAC 1-1.1-18(h), if the prefiled testimony of a witness is to be offered into evidence at the Evidentiary Hearing, and the witness sponsoring the prefiled testimony is not required to, and does not, attend the Evidentiary Hearing, the prefiled testimony shall be accompanied by the witness's sworn affidavit or written

verification at the time the evidence is offered into the record.

8. Discovery. Discovery is available for all parties and shall be conducted on an informal basis. Any response or objection to a discovery request shall be made within ten (10) calendar days of the receipt of such request. After March 27, 2013, any response or objection to a discovery request shall be made within five (5) business days of the receipt of such request. Any discovery served after noon will be deemed as having been served on the next business day. The parties have agreed to conduct discovery by electronic means. Mr. Ostergren has requested service through regular mail. However, he has also agreed to accept electronic service in the care of Mr. Radtke.

9. Prefiling of Workpapers. When prefiling technical evidence with the Commission, each party shall file copies of the work papers used to produce that evidence within two (2) business days after the prefiling of the technical evidence. Copies of same shall also be provided to any other party requesting such in writing. When submitting workpapers to the Commission, two (2) copies of each document shall be filed with the Secretary of the Commission.

10. Number of Copies/Corrections. With the exception of work papers, the parties shall file with the Commission an original and five (5) copies of all prefiled testimony and exhibits. Any corrections to prefiled testimony shall be made in writing as soon as possible after discovery of the need to make such corrections. 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. For filings greater than thirty (30) pages in length, a party shall file with the Commission an original and one (1) paper copy within two (2) business days of the electronic filing. When supplying such copies, the party must provide a copy of the email reflecting the electronic filing was accepted by the Commission.

11. Objections to Prefiled Testimony and Exhibits. Any objections to the admissibility of 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.

12. Intervenors. Any party permitted to become an Intervenor in this Cause shall be bound by the record as it stands at the time its Petition to Intervene is granted, pursuant to 170 IAC 1-1.1-11.

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, MAYS AND ZIEGNER CONCUR:

APPROVED: JAN 09 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