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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**PETITION OF TWIN LAKES UTILITIES, INC.)
FOR AUTHORITY TO INCREASE ITS RATES) CAUSE NO. 44388
AND CHARGES FOR WATER AND SEWER)
UTILITY SERVICE AND FOR APPROVAL OF)
NEW SCHEDULES OF RATES AND CHARGES) APPROVED:
APPLICABLE THERETO)**

APR 23 2014

ORDER OF THE COMMISSION

Presiding Officers:

David E. Ziegner, Commissioner

Aaron A. Schmoll, Senior Administrative Law Judge

On September 3, 2013, Twin Lakes Utilities, Inc. (“Petitioner”) filed its Petition and Notice of Intent to File in Accordance with Minimum Standard Filing Requirements (“Petition”) with the Indiana Utility Regulatory Commission (“Commission”), seeking authority to increase its rates and charges for water and sewer service and for approval of a new schedule of rates and charges. Petitioner’s notice of its intent to file in accordance with the Commission’s rules on minimum standard filing requirements (“MSFR”) was given pursuant to 170 IAC 1-5.

On September 10, 2013, the Lakes of the Four Seasons Property Owners’ Association (“LOFS”) filed a petition to intervene, which was granted by the Commission’s docket entry dated September 23, 2013. On October 1, 2013, Petitioner, LOFS and the Indiana Office of Utility Consumer Counselor (“OUCC”) filed a Stipulation and Agreement in Lieu of Prehearing Conference. On October 4, 2013, the Presiding Officers issued a Docket Entry establishing the procedural schedule.

On December 20, 2013, the OUCC prefiled the direct testimony and exhibits of Scott A. Bell, Edward R. Kaufman, Larry W. McIntosh, Richard J. Corey and Margaret A. Stull. On January 14, 2014, Petitioner prefiled its rebuttal testimony and exhibits. On January 30, 2014, Petitioner filed a Notice of Settlement in Principle and Request for Modification of the Procedural Schedule, which was granted by a Docket Entry dated January 31, 2014. On February 19, 2014, Petitioner submitted a copy of the Stipulation and Settlement Agreement (“Settlement Agreement”) between Petitioner and the OUCC, along with the supporting testimony of Dimitry I. Neyzelman.

On February 27, 2014, LOFS filed the settlement testimony of Richard G. Cleveland. Also on February 27, 2014, the Commission issued a docket entry, to which Petitioner responded on February 28, 2014.¹

¹ On April 15, 2014, a *Stipulation and Settlement Agreement* was filed that contained signatures of all of the parties. This version was identical to the version previously filed on February 19, 2014 with the signatures of only the OUCC and Petitioner.

Pursuant to notice of hearing given and published as required by law, proof of which was incorporated into the Commission's official file, a public evidentiary hearing in this Cause was held on March 5, 2014, at which time the Parties presented their respective evidence. No members of the public were present at the hearing.

The Commission, based upon the applicable law, the evidence herein, and being duly advised, now finds as follows:

1. **Notice and Jurisdiction.** Notice of the filing of Twin Lakes' Petition as well as the Commission's hearing was given as required by law. Twin Lakes is a public utility as defined by Ind. Code § 8-1-2-1 and we have continuing jurisdiction over the rates Twin Lakes may charge for its utility service. Accordingly, we have jurisdiction over both Twin Lakes and the subject matter of its Petition.

2. **Petitioner's Characteristics.** Petitioner owns, operates, manages and controls plant and equipment used and useful in the provision of water and sewer services in Lake and Porter Counties pursuant to Certificates of Territorial Authority issued by the Commission to Petitioner by the Commission's Orders in Cause Nos. 33766 and 35611. Petitioner currently serves approximately 3,100 water and sewer customers, most of whom are residential and located within the Lakes of the Four Seasons development. Petitioner is a wholly-owned subsidiary of Utilities, Inc., which owns corporations that own over 70 systems providing utility service to approximately 266,000 customers in 15 states.

3. **Existing Rates.** Petitioner's existing water and sewer rates and charges were approved by the Commission's February 22, 2012 Order in Cause No. 43957. More than fifteen months have passed since the filing date of Petitioner's last request for a general increase in its basic rates and charges.

4. **Relief Requested.** As explained in its Petition, Petitioner has made substantial capital investments in its system since its rates and charges were last established. At the same time, expenses and other costs have increased. As a result, Petitioner's existing rates and charges are insufficient to provide revenues adequate to cover Petitioner's necessary and reasonable operating expenses and provide the opportunity to earn the fair return to which Petitioner is lawfully entitled. In its case-in-chief, Petitioner requested authorization to increase its present water and sewer rates by 20.38% and 12.72%, respectively. As shown on Settling Parties' Exhibit 1, the parties have agreed to an increase in Petitioner's water rates of 14.38% and Petitioner's sewer rates of 8.55%.

5. **Test Year and Rate Base Cutoff.** As set forth in the Commission's October 4, 2013 Docket Entry, the test year for determining Petitioner's actual and *pro forma* operating revenues, expenses and operating income under present and proposed rates is the twelve months ending March 31, 2013, adjusted for changes that are fixed, known and measurable for ratemaking purposes and that occur within twelve months following the end of the test year. The rate base cutoff reflects used and useful property at the end of the test year. For major projects, the cutoff is ten business days prior to the date of the evidentiary hearing.

6. Evidence Presented.

A. Petitioner's Evidence. Dimitry Neyzelman, Manager, Regulatory Accounting for Utilities, Inc., testified regarding Petitioner's need for increased water and sewer rates. Mr. Neyzelman testified that Petitioner is requesting authorization to increase its present water and sewer rates by 20.38% and 12.72%, respectively. He explained that under present rates Petitioner is not able to cover its operating expenses and earn a reasonable return on its investment in its system. Petitioner's current water and sewer rates were established in 2012, based on a test year ended June 2010, and do not reflect rising operational costs or Petitioner's significant capital investments in its water and sewer infrastructure. Neyzelman Direct at 4-5.

Mr. Neyzelman also testified regarding the various operating expense, depreciation and tax adjustments made to determine Petitioner's proposed revenue increase. He explained that Petitioner has not included an adjustment at this time to reflect cost savings related to the implementation of Automatic Meter Reading ("AMR") but that Petitioner would include such an adjustment once it has some experience with the AMRs to determine the appropriate level of savings expected on a going-forward basis. Neyzelman Direct at 9-10.

Mr. Neyzelman testified regarding Petitioner's test year of the twelve months ended March 31, 2013, and Petitioner's rate base valuation based upon the MSFRs. Neyzelman Direct, at 6-7. He testified that Petitioner is updating its rate base to December 31, 2013, as it expects that this will be the last date prior to the hearing on its case-in-chief for which its accounting records will be closed. In addition, he indicated that there were five major projects that Petitioner proposed to include in rate base.² He stated the total net original cost rate base after his proposed adjustments is \$11,055,497, consisting of \$4,601,990 in water and \$6,453,507 in sewer rate base. *Id.* at 11. He identified the adjustments made to gross plant in service, accumulated depreciation and cash working capital.

Mr. Neyzelman explained that Petitioner proposes to use the same rate design utilized in its last rate case and provided proposed tariff sheets. He explained that the rate design allocates water revenue requirements between the components that should be recovered from the fixed charge (the base facilities charge) and the components that should be recovered from the variable charge (the usage charge). The rate design establishes the base facilities charge based on the size of the customer's meter, using the equivalent meter factors as established by the American Water Works Association ("AWWA"). He stated this methodology is a simpler, more accurate and less controversial method for determining the base facilities charge for each customer. Neyzelman Direct at 13.

Bruce T. Haas, Regional Director of Operations for the Midwest Region of Utilities, Inc., discussed Petitioner's water and wastewater system operations, the significant capital improvements made to Petitioner's system, water quality, customer complaints, and the results of the management audit conducted by Schumaker & Company. He also provided additional detail on the major projects identified in the company's Petition.

² Petitioner submitted a revised petition and case-in-chief on October 15, 2013 to reflect an additional major project that was inadvertently omitted from the original Petition and case-in-chief.

Mr. Haas explained that since Petitioner's last rate case, Petitioner has invested approximately \$1,532,000 in water plant and \$1,008,243 in sewer plant to improve service quality and ensure adequate and reliable service. He explained that five of the projects are considered "major projects" for purposes of the MSFRs: (1) New Ground Storage Tank; (2) New Well Installation; (3) AMR Installation; (4) Gas Chlorine Conversion; and (5) 2013 Sewer Capital Improvement Project. He described each of the major projects and their current status. Haas Direct at 7-11.

Mr. Haas testified that Petitioner is in compliance with all applicable water quality regulations and standards. He explained that Petitioner has implemented a more vigorous and comprehensive flushing program in the past three years and that Petitioner has noticed a considerable decrease in water quality complaints since the inception of this new program. Haas Direct at 12. He stated that water quality complaints have dropped by 25% since 2010, and the number of instances in which the water quality issues were due to circumstances on the utility's side has dropped by 60%. Mr. Haas said that consistent with the Commission's order in Cause No. 43128 S1, Petitioner is 40% complete with its annual cleaning and televising requirement and is currently working on replacements designated by the 2013 televising and jetting reports. Haas Direct at 13. He said that as capital improvements are completed each year, there has been a noticeable difference in the number of sanitary sewer backups as well as the recovery time at the treatment plant. This indicates that the improvements have been reducing inflow/infiltration issues as well as the number of blockages that have occurred.

Mr. Haas also discussed the efforts taken by Petitioner to improve its relationship with its customers and LOFS. Petitioner is consistently and frequently in contact with LOFS through Rick Cleveland, its Property Manager. He said Petitioner regularly communicates to Mr. Cleveland all activities happening within LOFS related to capital projects, sewer and water construction activities and future planning. Petitioner also spoke with LOFS and the OUCC prior to filing this rate case to answer any preliminary questions the parties may have. Haas Direct at 14-15.

Dylan W. D'Ascendis, a Principal of AUS Consultants, testified regarding the appropriate common equity cost rate for Petitioner. He recommended that the Commission authorize Petitioner the opportunity to earn an overall rate of return of 8.59% based upon the consolidated capital structure of Petitioner's parent company and his recommended common equity cost rate of 10.80%. Mr. D'Ascendis testified that his recommendation results from the application of several cost of common equity models, including the Discounted Cash Flow ("DCF"), Risk Premium Model ("RPM") and the Capital Asset Pricing Model ("CAPM").

Mr. D'Ascendis explained that after analyzing the cost rates based upon these models, he concluded that a common equity cost rate of 10.40% is indicated before any adjustments resulting from a relative risk analysis between Petitioner and his proxy group. He then adjusted the indicated common equity cost rate upward by 0.40% to reflect Petitioner's smaller relative size as compared with the proxy group, resulting in his overall recommendation of 10.80%.

Mr. D'Ascendis explained that his recommendation was consistent with the principles established in the *Hope* and *Bluefield* cases.³ He discussed the business and financial risks facing the water industry in general and Petitioner in particular. He identified the proxy group of nine water companies used in his analysis and the criteria used to select them. D'Ascendis Direct at 11-12. In addition to this proxy group of regulated utilities, Mr. D'Ascendis also developed a proxy group of domestic, non-price regulated companies that he believed was comparable in total risk to the utility proxy group. D'Ascendis Direct at 27-28. He stated that the average of the average and median results of the DCF, RPM and CAPM applied to the non-price regulated group was 10.95%, which was his indicated common equity cost rate for this proxy group. *Id.* at 29-30.

Mr. D'Ascendis also testified as to the methodology used to develop the relative risk adjustment due to Petitioner's small size relative to the proxy group. He indicated that although Petitioner was not publicly traded, if it were, the market capitalization of the average water company in the proxy group would be 55.2 times the size to Petitioner's estimated market capitalization. Based on his analysis, Mr. D'Ascendis recommended a business risk adjustment of 0.40%. He concluded that a common equity cost rate of 10.80% is both reasonable and conservative, providing Petitioner with sufficient earnings to enable it to attract necessary new capital. D'Ascendis Direct at 33.

B. OUCC's Evidence. Margaret A. Stull, OUCC Senior Utility Analyst, presented the OUCC's analysis of Petitioner's proposed rate increase. She stated the OUCC's analysis yields a proposed overall rate increase of 9.15% for the water utility and 2.64% for the sewer utility. She discussed the OUCC's proposed rate base for both the water and sewer utilities, including adjustments to major project costs, the exclusion of maintenance costs and other corrections. Based on these adjustments, she proposed an original cost rate base of \$4,474,687 for the water utility and \$6,210,607 for the sewer utility. She also discussed and supported various operating revenue and expense adjustments, as well as the OUCC's proposed gross revenue conversion factor. Finally, she discussed water utility rate design and recommended rates representative of the OUCC's proposed revenue requirements for both the water and sewer utilities.

Richard J. Corey, Utility Analyst with the OUCC, recommended the removal of certain rate base additions identified in invoices provided by Petitioner as "repairs," "emergency repairs," or other descriptions that indicated the invoice was for a repair or was a maintenance item. He stated that in discovery Petitioner acknowledged that several invoices could not be definitively identified as work which should be capitalized and thus should be removed from rate base and included in *pro forma* operations and maintenance ("O&M") expense. He stated that several of the remaining expenditures capitalized by Petitioner should be more properly considered operation or maintenance items, including certain sludge removal and diagnostic costs. He recommended that all of these items be removed from rate base and added to test year *pro forma* O&M expense.

Larry W. McIntosh, Utility Analyst for the OUCC, discussed Petitioner's capital improvement projects. He testified that during his site visit to Twin Lakes he reviewed the completed projects and viewed other projects that Petitioner plans to complete as major projects for this filing. He agreed that the AMR meter change out was needed and that it should provide several

³ *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); *Bluefield Water Works Improvement Co. v. Public Serv. Comm'n*, 262 U.S. 679 (1922).

operational benefits. With respect to the new well at Water Treatment Plant Two, Mr. McIntosh agreed that Petitioner should add a second well, but noted that because LOFS has declined to approve the easements required for the project, Petitioner will be removing this as a major project in its rebuttal testimony. LOFS agreed to provide Petitioner with a well site, but not at the park location. He agreed that Petitioner needs a new 500,000 gallon ground storage tank but identified some potential concerns with the use of a bolt-together tank versus a prestress concrete tank. He also did not object to Petitioner's conversion from gaseous chlorine to liquid sodium hypochlorite at the wastewater treatment plant. With respect to the 2013 Sewer Capital Improvement Project, Mr. McIntosh did not believe that all of the items included in that project should be considered capital projects.

Mr. McIntosh also discussed the recommendations from the management audit performed by Schumaker & Company. He recommended that Petitioner develop specific policies regarding motor vehicle operations by employees and that Petitioner should contact INSafe to conduct an on-site consultation. He further recommended that Petitioner include customer satisfaction surveys as a KPI to better measure customer satisfaction and that Petitioner address the financial management recommendations contained in the audit report.

Mr. McIntosh recommended that Twin Lakes continue with the semi-annual reporting ordered in Cause No. 43597. He stated that a review of the reports provided by Petitioner indicates that Petitioner has improved its hydrant inspection and flushing program. He proposed that Petitioner continue with their current semi-annual hydrant inspection and flushing program. He further noted that Petitioner's water loss percentage of 2.9% was extremely low for a water utility as old as Twin Lakes.

Mr. McIntosh also testified regarding Petitioner's water and wastewater operations. He recommended that Petitioner test all plant meters and meters two inches and larger on the schedule recommended by the AWWA. He also discussed Petitioner's well cleaning and some potential concerns if Petitioner were to use a proprietary well cleaning method. With respect to Petitioner's wastewater operations, he noted that the odor controls implemented by Petitioner appear to have been effective and that Petitioner has inspected all of the manholes in the LOFS area and rehabilitated manholes as needed. He recommended that Petitioner continue to make repairs on defective manholes to reduce the inflow and infiltration of groundwater and storm water. He also suggested that Petitioner investigate the use of cured in place pipe relining for its wastewater system.

Edward R. Kaufman, Chief Technical Advisor with the OUCC's Water/Wastewater Division, testified regarding the appropriate cost of equity for Petitioner. He used both a DCF and CAPM analysis to estimate Petitioner's cost of equity. Based on his analysis, Mr. Kaufman recommended a cost of equity of 8.75% for Petitioner. He stated that the primary differences between his recommendation and Mr. D'Ascendis' are the model inputs and the weight given to each model.

Mr. Kaufman discussed in detail his use of the DCF and CAPM analyses and the inputs used therein to develop a recommended cost of equity. He stated that the results of his DCF analysis range from 8.08% to 9.46%, and the results from his CAPM analysis range from 7.10% to 7.53%. He explained that because his Value Line DCF analysis and CAPM analysis based on historical risk premiums appear to be more consistent with past Commission orders, it is appropriate to give those

models additional weight. He said this produces an overall range of 7.10% to 8.15%, with a midpoint of 7.63%. Kaufman Direct at 31. He also included a 40 basis point adjustment to his industry estimated cost of equity to reach his final recommendation of 8.75%.

Mr. Kaufman also responded to Mr. D'Ascendis' cost of equity analysis. He disagreed with several of the inputs and assumptions used for Mr. D'Ascendis' DCF analysis. He noted that Mr. D'Ascendis' Risk Premium model uses the Predictive Risk Premium Model ("PRPM"), which Mr. Kaufman indicated was a very new model. He said this was the first time he has seen this model used by an Indiana utility to estimate cost of equity, so there is not a history of cases or experience with this model by which we would know the limitations and any unintended consequences associated with using this model to estimate cost of equity. He then discussed his concerns with the results of this analysis. Finally, Mr. Kaufman discussed his disagreements with Mr. D'Ascendis' CAPM analysis and his use of a non-price regulated proxy group. He concluded that his proposed cost of equity of 8.75% was reasonable and should be approved by the Commission.

Scott A. Bell, Director of the OUCC's Water/Wastewater Division, testified regarding performance benchmarking. He indicated that the AWWA conducts a utility benchmarking survey periodically that establishes several high-level performance indicator categories, including 1) Organizational Development, 2) Customer Relations, 3) Business Operations, 4) Water Operations, and 5) Wastewater Operations. He noted that Petitioner's parent company has developed a fairly extensive key performance indicator ("KPI") program that can be valuable tools to determine the level of service being provided to Petitioner's customers. In addition to what Utilities, Inc. already tracks, Mr. Bell believed it would be beneficial for Petitioner to start tracking its performance using some of the performance measures described in the AWWA Benchmarking Report. He proposed that the Commission direct Petitioner to meet with the OUCC within 90 days of the issuance of the Final Order in this Cause to discuss and determine the appropriate performance measures Petitioner should begin tracking.

C. Petitioner's Rebuttal. In rebuttal, Mr. Neyzelman responded to the OUCC's proposed adjustments to rate base, revenue and expenses. While he agreed with some of the OUCC's adjustments, and accepted others for purposes of expediting the proceeding, Mr. Neyzelman disagreed with several adjustments proposed by the OUCC. He also proposed some new adjustments to reflect additional capital investments made in connection with Petitioner's 2013 Sewer Capital Improvement project and to properly account for certain deferred maintenance expense items. He also responded to Mr. McIntosh's recommendations regarding the management audit. Based on his testimony, Mr. Neyzelman proposed water and wastewater rate increases of 19.02% and 10.83%.

Mr. Haas responded to the OUCC's testimony regarding water and wastewater operations and discussed the current status of Petitioner's major projects. He also discussed Petitioner's improved service quality and customer relations, as well as the OUCC's recommendations regarding benchmarking and reporting requirements. He explained that Petitioner's service quality was a significant issue in Petitioner's last rate case. Since that time, Petitioner has taken a number of steps to improve service quality and resolve issues that had lingered for too long. He stated that Petitioner has worked hard to improve service quality as well as the relationship between the utility and its customers and has complied with all of the Commission's reporting requirements.

Mr. D'Ascendis responded to the cost of equity analysis performed by Mr. Kaufman and rebutted Mr. Kaufman's critique of his direct testimony. He opined that Mr. Kaufman's low recommended common equity return is unreasonable and likely to be viewed as an unnecessary penalty to a well-managed company that is prudently investing in its aging infrastructure. He stated that to his knowledge he was unaware of the Commission ever authorizing a cost of equity for any water utility as low as recommended by Mr. Kaufman. He stated it was particularly important that Petitioner be provided a reasonable return on equity in this proceeding as its return on equity was lowered in its last rate case by 70 basis points to reflect what the Commission saw as poor management practices. Given the small size of this utility and the significant investments planned and currently underway, he said it was important that the financial integrity of Petitioner be maintained by providing Petitioner with a supportive return on equity.

7. Settlement Agreement and Supporting Evidence. Both Petitioner and LOFS filed testimony in support of the Settlement Agreement. Mr. Neyzelman explained that the Settlement Agreement resolves all disputed matters pending before the Commission in this proceeding. More specifically, he indicated that the parties have agreed upon an increase of \$315,245 in Petitioner's total revenue requirement, representing a 14.38% increase in Petitioner's basic water rates and charges and an 8.55% increase in Petitioner's basic sewer rates and charges. He said the revenue requirement was based upon a weighted average cost of capital of 8.213%, based upon a cost of equity of 9.8%. The parties agreed that Petitioner's original cost water and sewer rate base is \$4,476,716 and \$6,294,701, respectively.

Mr. Neyzelman also discussed the agreed-upon adjustments made to Petitioner's operating expense and rate base. He explained that the Settlement Agreement provides for a number of adjustments to Petitioner's operating expense, including the deferment and amortization of sludge hauling and smoke testing costs. Further, the parties have agreed to total rate case expense of \$281,216, which includes the unamortized rate case expense from Petitioner's last rate case, amortized over four years.

With respect to Petitioner's rate base, the parties have agreed that Petitioner's rate base should be adjusted for non-capital water and sewer costs, televising and cleaning, sludge hauling and smoke testing. These adjustments reduce Petitioner's overall rate base by approximately \$175,000. The Settlement Agreement further provides that the issue of the recovery of extraordinary depreciation reflecting the loss of prudent abandonment associated with the old, non-AMR meters retired by Petitioner can and should be addressed in Petitioner's next rate case, and that all arguments and defenses may be raised in that subsequent rate case.

Mr. Neyzelman testified that the Settlement Agreement is the result of serious negotiations and bargaining, with the parties evaluating the issues and ultimately reaching a compromise in the public interest to resolve the disputed issues. In particular, he noted that several discussions were had between LOFS and Petitioner in order to address concerns raised by LOFS. Petitioner also participated in several meetings with OUCC counsel and staff to work through the various issues in this case and reach a mutually agreeable position. He concluded that the terms of the Settlement Agreement are reasonable and approval of the Settlement Agreement serves the public interest.

8. Commission Discussion and Findings. Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement

“loses its status as a strictly private contract and takes on a public interest gloss.” *Id.* (quoting *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission “may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement.” *Citizens Action Coalition*, 664 N.E.2d at 406.

Furthermore, any Commission decision, ruling or order – including the approval of a settlement – must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Pub. Serv. Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission’s procedural rules also require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Ind. Code ch. 8-1-2, and that such agreement serves the public interest.

Upon review of the evidence of record, we find that the Settlement Agreement is the product of arms-length negotiation by the parties and that the terms of the Settlement Agreement represent a reasonable resolution of the issues presented to the Commission. The Commission finds that the terms of the Settlement Agreement are reasonable, and the approval of the Settlement Agreement to be in the public interest.

The evidence demonstrates that Petitioner’s current rates and charges are insufficient to meet Petitioner’s annual revenue requirement. Therefore, we find that Petitioner should be authorized to increase its water rates by 14.38% and sewer rates by 8.55% to produce net operating income required for return on rate base of \$367,673 and \$516,984, respectively. Petitioner’s net revenue requirements are illustrated below:

	Water	Sewer
Original Cost Rate Base	\$ 4,476,716	\$ 6,294,701
Times: Weighted Cost of Capital	8.213%	8.213%
Net Operating Income Required for Return on Rate Base	367,673	516,984
Less: Adjusted Net Operating Income	<u>(267,219)</u>	<u>(428,478)</u>
Additional NOI Required	100,454	88,506
Times: Gross Revenue Conversion Factor	<u>1.668313</u>	<u>1.668313</u>
Revenue Increase	167,589	147,656
Percentage Increase	<u>14.38%</u>	<u>8.55%</u>

We note that in addition to the OUCC, LOFS is also a signatory to the Settlement Agreement. Unlike prior cases, no consumer or consumer party requested a field hearing. While Petitioner still has room for improvement, it appears that many of the service quality and customer relation issues raised in Petitioner’s last rate case have been addressed or improved by Petitioner. We encourage Petitioner to continue to improve service quality and proactively manage its water and wastewater systems, and further encourage the parties to continue to work together to proactively identify issues and work to reach mutually agreeable resolutions.

Indeed, we note the Settlement Agreement itself provides for ongoing communications between Petitioner, the OUCC, and LOFS. More specifically, Petitioner has agreed to meet with the OUCC to discuss its proposal regarding the use of AWWA benchmarking standards. Petitioner has further agreed to take a number of steps to keep the lines of communication open between LOFS and Petitioner, including meeting with LOFS on a semi-annual basis to discuss Petitioner's capital spend, capital budgeting and options/timing of cost recovery. Petitioner further agreed to meet with LOFS to discuss Petitioner's procedures for handling complaints and for issuing boil water advisories. Finally, Petitioner has agreed to meet with the LOFS Board at least sixty days prior to filing its next general rate case to discuss alternatives whereby the parties may lower overall rate case expense, both for Petitioner and LOFS. These commitments should help foster an improved relationship between the parties.

With respect to meeting(s) with the OUCC concerning AWWA benchmarking standards, Petitioner shall notify and include staff from the Commission's Water/Sewer Division in such meetings.

9. Reporting Requirements. The evidence shows that Petitioner has complied with all of the reporting requirements set forth in the Commission's Order in Cause No. 43957. Pub. Ex. No. 3, at 18-21. The OUCC recommended that Petitioner continue to submit semi-annual reports. Petitioner did not oppose this recommendation, and we find it reasonable and appropriate for Petitioner to provide some continued ongoing reporting. More specifically, we find that Petitioner's reports should include: (a) televised line inspection information and Petitioner's plan for the upcoming year; (b) copies of monthly operating reports and a listing of call-out worksheets; and (c) a report on complaints elevated to the Director of Customer Care. Accordingly, Petitioner is directed to file a semi-annual report in this docket, with the first report due July 31, 2014, for the preceding January through June period. Subsequent reports shall be filed under this Cause on January 31 and July 31 for the July to December and January through June periods, respectively. Petitioner shall also serve copies of the report on the OUCC and LOFS.

10. Effect of Settlement Agreement. With regard to future citation of the Agreement, we find the Agreement and our approval of it should be treated in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434 (IURC 3/19/1997) and the terms of the Agreement regarding its non-precedential effect. The Agreement shall not constitute an admission or a waiver of any position that any of the parties may take with respect to any or all of the items and issues resolved therein in any future regulatory or other proceedings, except to the extent necessary to enforce its terms.

11. Confidentiality. Petitioner filed a motion for protective order on September 3, 2013, supported by an affidavit showing documents to be submitted to the Commission were trade secret information within the scope of Ind. Code §§ 5-14-3-4(a)(4), 5-14-3-9, and 24-2-3-2. The Presiding Officers issued a Docket Entry on September 23, 2013, finding such information to be confidential on a preliminary basis, after which such information was submitted under seal. We find all such information is confidential pursuant to Ind. Code §§ 5-14-3-4 and 24-2-3-2, and is exempt from public access and disclosure by the Commission.

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

1. The Settlement Agreement, a copy of which is attached to this Order, is hereby approved.

2. Twin Lakes shall be allowed to increase its water rates by 14.38% and its sewer rates by 8.55% on an across-the-board basis. Such rates and charges shall be designed to produce total annual operating revenues of \$1,355,711 for the water utility and \$1,878,434 for the sewer utility, which are expected to produce annual net operating income of \$367,673 for water and \$516,984 for the sewer utility. Prior to placing these rates into effect, Petitioner shall file a revised tariff with the Commission's Water/Sewer Division. These rates are effective for applicable water and sewer service on and after Water/Sewer Division approval of the tariff.

3. Petitioner is directed to file its first Semi-Annual Report in this docket as set forth in Paragraph 9.

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

ATTERHOLT, MAYS, STEPHAN, AND ZIEGNER CONCUR; WEBER ABSENT:

APPROVED: APR 23 2014

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



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

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FILED

APR 15 2014

INDIANA UTILITY REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF TWIN LAKES UTILITIES, INC.)
FOR AUTHORITY TO INCREASE ITS RATES)
AND CHARGES FOR WATER AND SEWER)
UTILITY SERVICE AND FOR APPROVAL OF) CAUSE NO. 44388
NEW SCHEDULES OF RATES AND)
CHARGES APPLICABLE THERETO)

STIPULATION AND SETTLEMENT AGREEMENT

Petitioner Twin Lakes Utilities, Inc. ("TLUI" or "Petitioner") and the Indiana Office of Utility Consumer Counselor ("OUCC") (collectively the "Settling Parties"), stipulate and agree for the purposes of resolving the issues in this Cause to the terms and conditions set forth below (which terms and conditions and the exhibits attached thereto are collectively referred to herein as the "Settlement").

1. Rate Increase. As shown in the accounting schedules attached hereto as Exhibit 1, the Settling Parties stipulate and agree that Petitioner's basic water rates and charges should be increased by 14.38%. The Settling Parties further stipulate and agree that Petitioner's basic sewer rates and charges should be increased by 8.55%.

2. Weighted Average Cost of Capital and Capital Structure. The Settling Parties agree that weighted average cost of capital is 8.213% based on a cost of equity of 9.8% and Petitioner's capital structure as of November 30, 2013.

3. Revenue Requirements. The Settling Parties agree that Petitioner's total revenue requirement in this Cause consists of \$167,589 for water and \$147,656 for sewer, for a total revenue requirement of \$315,245.

4. Operating Expense Adjustments. The Settling Parties agree to the following adjustments to Petitioner's Operating Expense:

- (a) Sludge Hauling and Smoke Testing Expense. The Settling Parties agree that Petitioner may defer and amortize \$69,300 in sludge hauling costs over six years and defer and amortize \$34,538 in smoke testing costs over ten years.
- (b) Rate Case Expense. The Settling Parties have agreed to total rate case expense of \$281,216, which includes the unamortized rate case expense from Petitioner's last rate case. The Settling Parties have further agreed to amortize this rate case expense over four years.

5. Rate Base. The Settling Parties stipulate and agree that Petitioner's original cost rate base is \$10,771,417, consisting of \$4,476,716 in water rate base and \$6,294,701 in sewer rate base. This rate base includes the following agreed-upon adjustments:

- (a) Non-Capital Water Costs. The Settling Parties have agreed to remove \$24,020 from water plant in service to reflect the removal of certain non-capital costs.
- (b) Televising and Cleaning. The Settling Parties have agreed to remove \$42,000 from the 2013 Sewer Capital Improvement Project related to televising and cleaning.

- (c) Miscellaneous Sewer Maintenance. The Settling Parties have agreed to remove \$4,248 in miscellaneous sewer maintenance expense from sewer plant in service.
- (d) Sludge Hauling. The Settling Parties have agreed to remove \$69,300 in sludge hauling costs from sewer plant in service. As set forth in Section 4(a) above, such amounts will be deferred and amortized over six years.
- (e) Smoke Testing. The Settling Parties have agreed to remove \$34,538 in smoke testing costs from sewer plant in service. As set forth in Paragraph 4(a) above, such amounts will be deferred and amortized over ten years.

6. Recovery of Prudently Abandoned Utility Plant In Service. Petitioner requested a return of capital on “prudently abandoned utility plant in service.” In order to reach a global settlement, the Settling Parties have agreed that the issue of such recovery can and should be reserved for Petitioner’s next rate case. The Settling Parties have further agreed that all arguments and defenses may be raised in that subsequent case.

7. Benchmarking. Petitioner agrees to meet with the OUCC to discuss the OUCC’s recommendation regarding benchmarking of Petitioner’s performance.

8. Ongoing Communications with LOFS. Petitioner agrees to meet with the LOFS Board (or its designated representative(s)) on a semi-annual basis (or such other times as are mutually agreed-upon) to discuss Petitioner’s capital spend, capital budgeting and options/timing of cost recovery. Such discussions will be subject to suitable safeguards regarding information that is confidential, proprietary and/or competitively-sensitive. Petitioner further agrees to meet

with the LOFS Board (or its designated representative(s)) at a mutually agreed-upon time to discuss Petitioner's procedures for handling complaints and for issuing boil water advisories. At least sixty (60) days prior to filing Petitioner's next general rate case (absent the need to file for emergency relief), Petitioner agrees to meet with the LOFS Board (or its designated representative(s)) to discuss alternatives whereby the parties may lower overall rate case expense, both for Petitioner and for LOFS.

9. Use of the Settlement. The Settling Parties shall support this Settlement before the Commission and request that the Commission expeditiously accept and approve the Settlement. If the Settlement is not approved by the Commission without amendment, the Settling Parties agree that the terms thereof shall not be admissible in evidence or in any way discussed in any proceeding. Moreover, the concurrence of the Settling Parties with the terms of the Settlement is expressly predicated upon the Commission's approval of the Settlement without amendment. If the Commission alters the Settlement in any material way or imposes additional obligations on Petitioner not contemplated in the Settlement, the Settlement shall be deemed withdrawn unless that alteration is unanimously consented to by the Settling Parties in writing. In that event, an informal attorneys' conference will be promptly scheduled where a procedural schedule will be fixed for the processing of the balance of this Cause. The Settling Parties expressly reserve all of their rights, including the right to present appropriate evidence, in the event this Cause is required to be litigated.

The Settling Parties agree to file testimony in support of this Settlement, which shall be offered into evidence without objection and the Settling Parties hereby waive cross-examination. The Settling Parties agree that the evidence in support of this Settlement constitutes substantial evidence to support this Settlement and provides an adequate evidentiary basis upon which the

Commission can make any findings of fact or conclusions of law necessary for the approval of this Settlement, as filed. The Settling Parties shall prepare and file an agreed proposed order with the Commission as soon as reasonably possible.

If the Settlement is approved by the Commission, the Settling Parties agree that the terms of the Settlement are intended to represent a resolution by compromise of the issues in this Cause. The Settling Parties further agree that the provisions of the Settlement may never be deemed an admission made by any of the Settling Parties, may never be used as substantive precedent in future Commission proceedings and may never be used against any of the Settling Parties in subsequent regulatory or other Commission proceedings, except to the extent necessary to enforce the Settlement.

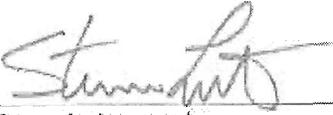
The Settling Parties stipulate and agree that the Settlement is solely the result of compromise in the settlement process and, except as provided herein, is without prejudice to and shall not constitute a waiver of any position that either of the Settling Parties may take with respect to any issue or item whether or not resolved herein, in any future regulatory or other proceeding.

10. The undersigned have represented and agreed that they are fully authorized to execute this Stipulation and Settlement Agreement on behalf of their designated clients who will be bound thereby.

[Signatures on Following Page]

Twin Lakes Utilities, Inc.

Date: 2/19/14

By: 
Steve Lubertozi
Chief Regulatory Officer

Lakes of the Four Seasons Property Owners'
Association

Date: _____

By: _____

OFFICE OF UTILITY CONSUMER
COUNSELOR

Date: _____

By: _____
Scott Franson,
Assistant Consumer Counselor

Twin Lakes Utilities, Inc.

Date: _____

By: _____
Steve Lubertozi
Chief Regulatory Officer

Lakes of the Four Seasons Property Owners'
Association

Date: 4/14/14

By: Richard G. Cleveland

OFFICE OF UTILITY CONSUMER
COUNSELOR

Date: February 19, 2014

By: Scott Franson
Scott Franson,
Deputy Consumer Counselor

Twin Lakes Utilities, Inc.

Date: _____

By: _____
Steve Lubertozi
Chief Regulatory Officer

Lakes of the Four Seasons Property Owners'
Association

Date: _____

By: _____

OFFICE OF UTILITY CONSUMER
COUNSELOR

Date: February 19, 2014

By:  _____
Scott Franson,
Deputy Consumer Counselor