

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF HILLVIEW ESTATE SUBDIVISION) CAUSE NO. 45132 U
UTILITIES FOR A NEW SCHEDULE OF RATES AND)
CHARGES FOR WASTEWATER SERVICE) APPROVED: JAN 23 2019

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ORDER OF THE COMMISSION

Presiding Officers:

Stefanie N. Krevda, Commissioner

Lora L. Manion, Administrative Law Judge

On August 15, 2018, Hillview Estate Subdivision Utilities, Inc. (“Hillview”) filed a Small Utility Rate Application (“Application”) under Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. On August 29, 2018, Hillview filed a copy of its *Notice of Proposed Increase in Water Rates for Customers of Hillview Estate Subdivision Utilities, Inc.* as required by 170 IAC 14-1-2(b). On August 29, 2018, Hillview filed a copy of its proof of publication.

On September 13, 2018, the Commission’s Water/Wastewater Division issued a Memorandum finding that the Application was complete.

On November 28, 2018, as required by 170 IAC 14-1-4(a), the Indiana Office of Utility Consumer Counselor (“OUCC”) filed its report, recommending improvements to Hillview’s practices regarding its collection sewers, manholes, and wastewater treatment plant. The OUCC offered other considerations which included the timely filing of a Business Entity Report with the Indiana Secretary of State.

Under 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. The Commission received communications from no customers requesting a public hearing. Accordingly, no hearing has been held.

Pursuant to 170 IAC 14-1-4(b) and (c), Hillview elected not to file a reply to the OUCC Report.

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

- 1. Commission Jurisdiction and Notice.** Hillview is a public utility as defined in Ind. Code § 8-1-2-1(a) and qualifies for treatment as a small utility under Ind. Code § 8-1-2-61.5. Hillview published legal notice of the filing of this small utility rate case as required by 170 IAC 14-1-2(b). Therefore, we find that notice of this Cause 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 Hillview and

the subject matter of this proceeding and may issue an Order in this Cause based on the information filed as provided by 170 IAC 14-1-6.

2. **Hillview's Characteristics.** Hillview is an Indiana not-for-profit utility within the meaning of Ind. Code § 8-1-2-125. Hillview provides wastewater service to approximately 65 residential customers in the Hillview Estates Subdivision located in Bartholomew County, Indiana.

3. **Test Period.** The test period selected for determining Hillview's revenues and expenses reasonably incurred in providing wastewater utility service to its customers includes the 12 months ending December 31, 2017. With adjustments for changes that are fixed, known, and measurable, the Commission finds this test period is sufficiently representative of Hillview's normal operations to provide reliable data for ratemaking purposes.

4. **Background and Relief Requested.** Approximately 29 years ago, on February 24, 1989, Hillview requested its last rate increase, which was approved by the Commission on May 31, 1989, and increased Hillview's monthly flat rate to \$30.00. *Application of Hillview Estates Subdivision Utilities, Inc., for Rate Increase*, Cause No. 38737-U, 1989 WL 1734182 (May 31, 1989).

In this case, Hillview requests a 113.91% across-the-board rate increase. This would increase annual operating revenues by \$28,944 for higher operating expenses of \$1,781 and extensions and replacements ("E&R") of \$3,404 per year. Hillview proposed a \$225 increase to operating revenues based on the normalization of test year customer growth that resulted in an increase of seven additional residential bills. Hillview proposed a net decrease to test year purchased power expense (\$757). Hillview proposed to increase the following test year expenses: (1) chemicals (\$268); (2) rate case expense (\$210); (3) miscellaneous expense (\$4); (4) other (\$2,056); and (5) IURC fee (\$43). App. Sched. 4.

5. **OUCC Report.** The OUCC's Report was prepared by Thomas W. Malan, Utility Analyst in the Water/Wastewater Division, and James T. Parks, Utility Analyst II in the Water/Wastewater Division.

A. **Proposed Rate Increase.** In response to the Application, the OUCC recommends Hillview be authorized to increase its monthly recurring rates and charges by 113.33% for an annual net revenue increase of \$25,448 annually, so as to produce net annual revenues of \$47,871. The OUCC's suggested rate increase is 0.58% less and results in a net annual increase in revenues of \$3,496 less than Hillview's request. The OUCC suggests the following changes to Hillview's proposed requirements: (1) remove cost of \$19,616 for licensed plant operator and legal fees which were already included in the test year; (2) add tax expense of \$27; and (3) increase repair and maintenance expense by \$2,064.

Specifically, the OUCC proposes the following adjustments to Hillview's revenue requirement:

B. **Adjustments to Hillview's Financial Statements.** The OUCC proposes adjustments to correctly reflect Hillview's financial position at the end of the test year. The

adjustments include a \$39 decrease to accounts receivable, a \$2,930 decrease to retained earnings, and a \$2,891 increase to paid-in-capital.

C. Extensions and Replacements. Mr. Malan, Utility Analyst in the OUCC Water/Wastewater Division, proposes recalculation of the revenue requirement for E&R. Mr. Malan testified he estimated E&R by adding the total amount spent for capital investments during the most recent three years, deducting the amount funded by debt, and dividing the resulting total by three. Mr. Malan proposes an allowance for E&R of \$6,162.

D. Revenue Adjustment. Mr. Malan made an adjustment that decreases Hillview's test year operating revenues by \$2,930 to \$22,256. Mr. Malan also recommends a net increase of \$198 to test year operating revenues associated with the normalization of test year customer growth, which yields pro forma operating revenues of \$22,454.

E. Operating Expense Adjustment. Mr. Malan accepted many of Hillview's proposed operating expense adjustments. However, Mr. Malan did not accept Hillview's proposed test year adjustments for its licensed plant operator and for legal fees. Further, the OUCC proposes the following adjustments to Hillview's financial statements as of December 31, 2017: (1) a decrease of \$1,500 to sludge removal expense; and (2) a net decrease of \$7,334 to contractual services – other/testing. Hillview advised that \$9,234 recorded to contractual service during the test year was capital in nature and the amount was reclassified as expense. It was also determined that \$1,500 recorded to pumping expense should have been classified as contractual service.

F. Collection System. Mr. Parks, Utility Analyst II in the OUCC Water/Wastewater Division, testified that Hillview does not have any employees and the majority of Hillview's operations are provided through contracted services. Hillview is managed by volunteer members of the Board who also oversee utility operations and provide some maintenance services such as grounds labor.

Mr. Parks testified that the original collection system and nearly all of the original wastewater systems are still in service today. New pumps, blowers, alarms, meters, disinfection chemical feed systems, a standby generator, and building improvements were added. Mr. Parks testified that Hillview treated an average of 10,000 gallons per day in 2017 and Hillview is not under any enforcement actions. Regarding the conditions of the existing collection system and manholes, Mr. Parks testified that their conditions are unknown because Hillview does not have an active inspection program, a cleaning [program], or an asset condition survey.

Mr. Parks testified that during the OUCC's and Commission's site visit, he could not find manholes which should be located where pipes intersect and at direction changes. Mr. Parks recommends that Hillview institute the following changes to inventory its collection system, assess the system's condition, and budget for sewer maintenance needs:

(1) Locate all Manholes. Mr. Parks testified Hillview should inspect locations where two or more segments intersect and where major changes in direction occur.

Since manholes have cast iron lids and frames, these hidden manholes can be found with a metal detector.

(2) **Conduct Televising.** Hillview should televise the collection system to assess sewer conditions such as cracked pipes, offset joints, blockages, grease build-ups, sediments in the inverts, and root penetrations. Hillview should also conduct televising to locate manholes. Mr. Parks testified that televising can also help determine the extent of infiltration and inflow (“I/I”) by identifying water entry locations such as cracked pipes, leaking lateral connections, and faulty joints. Televising will also identify all manhole locations. Mr. Parks recommended that Hillview contact the nearby Columbus wastewater department about possibly partnering on televising to provide an initial look at the collection system.

(3) **Develop an Asset Inventory and Management Program.** Mr. Parks testified Hillview should institute a program to periodically inspect, assess, and document conditions of its collection system assets.

(4) **Identify and Clear Encroachments.** Mr. Parks testified Hillview should begin the process to remove encroachments over the collection system that prevent or hinder access to the collection system for maintenance and emergency repairs.

(5) **Establish a Maintenance and Repair Budget.** Mr. Parks testified Hillview should budget for routine and emergency sewer maintenance and repairs to have funds available for sewer cleaning, blockage removal, root removal, emergency repairs, and I/I identification and removal. Mr. Parks recommended increasing Hillview’s E&R revenue requirement to \$6,162 annually to fund a maintenance and repair program.

G. Wastewater Treatment Plant. Mr. Parks testified that the original package treatment plant remains in service. Mr. Parks also testified Hillview made systematic improvements to the existing package treatment plant that addressed the violations that the Indiana Department of Environmental Management (“IDEM”) listed in the previous Agreed Order and in subsequent IDEM Inspection Summaries / Violations letters. Hillview developed a Compliance Plan that IDEM approved in 2010, and Hillview implemented the plan for the majority of items. IDEM closed out the Agreed Order in November of 2017.

Mr. Parks testified during his site visit, he noticed that the package treatment plant appeared to be well operated. Mr. Parks testified the new contract operator appears to be performing reasonable cleaning and maintenance. However, Mr. Parks testified the primary problem with the package treatment plant is that it consists of only a single treatment tank with no redundancy. Mr. Parks recommended improvements so that Hillview may respond to treatment tank emergencies and plan for the addition of a redundant treatment system to allow the existing package treatment plant to be serviced and rehabilitated within five to ten years. Mr. Parks recommends the following:

(1) **Develop a Monitoring and Emergency Response Plan.** Hillview should create a plan to monitor tank conditions (including the condition of the steel tank walls

and coatings) and to respond to leaks or a crack in the treatment tank walls (as has occurred) that would cause a sewage spill to the receiving stream.

(2) **Repaint the Exterior and All Accessible Steel Surfaces.** Mr. Parks testified Hillview should plan for and repaint the existing steel package plant within the next two years.

(3) **Develop a Long-Term Replacement and Repair Strategy.** Mr. Parks recommends that the Commission order Hillview to seek assistance from the State Revolving Fund, administered by the Indiana Finance Authority and IDEM's Technical Support Section, to develop a long-term strategy and to identify funding alternatives for the addition of a redundant wastewater treatment tank so that the existing steel package plant can be rehabilitated. Mr. Parks testified this strategy should be submitted to the Commission and the OUCC as a post-Order compliance requirement within two years [of the date of this Order].

(4) **Establish a Replacement and Repair Fund.** Mr. Parks testified Hillview should establish a replacement fund account for repairs and repainting of the existing steel package plant and the eventual addition of a redundant treatment system. Following development of the replacement and repair strategy, Mr. Parks testified Hillview should quantify the estimated capital costs and identify funding alternatives for inclusion in its next rate case.

H. Other Considerations.

(1) **Administrative Dissolution with the Secretary of State.** Mr. Malan testified that Hillview is currently facing Administrative Dissolution with the Indiana Secretary of State's office due to not filing its Business Entity Report by August 31, 2018, as required. Mr. Malan recommends that the Commission require Hillview to file its Business Entity report with the Secretary of State's office within 30 days of the issuance of a final Order and stay current on future filings.

(2) **Good Governance Measures.** Mr. Malan testified Hillview also does not hold an annual meeting as required by its corporate [by-laws]. Mr. Malan recommends the Commission require Hillview to hold an annual meeting along with all other meetings required by its corporate [by-laws]. Mr. Malan recommends Hillview be required to maintain good business practices as outlined in its charter. Mr. Parks recommends Hillview document the operation and maintenance work it is performing and take additional good governance measures to keep customers informed of its capital needs and the actions it is taking. Mr. Parks testified his recommendations include Hillview complying with its Utility Rates and Regulations.

I. **Customer Comments.** The OUCC received one customer comment, and the customer opposed the rate increase.

6. **Hillview's Reply.** Pursuant to 170 IAC 14-1-4(b) and (c), Hillview elected not to file a reply to the OUCC Report. Therefore, there are no responses by Hillview to the OUCC's various recommendations.

7. **Commission Discussion and Findings.**

A. **Rates and Revenue Requirement.** Under Ind. Code § 8-1-2-125, rates for a not-for-profit utility are calculated by first determining the amount of the adjusted net operating expenses based on the utility's current rates. The adjusted amounts are based on known recurring expenses, updated to include changes that are fixed, known, and measurable, and expected to occur within 12 months of the end of the test year.

The table below shows revenue requirements from Hillview's Application and the OUCC's proposal:

Description	Petitioner	OUCC	Variance
Operating Expenses	\$50,907	\$41,709	(\$9,198)
Debt Service			
Debt Service Reserve			
Extensions & Replacements	3,404	6,162	2,758
Working Capital			
Total Revenue Requirements	54,311	47,871	(6,440)
Less: Interest Income			
Net Revenue Requirements	54,311	47,871	(6,440)
Less: Other Revenues Not Subject to Increase			
Less: Pro Forma Present Rate Operating Revenues	25,411	22,454	(2,957)
Revenue Increase Required Excluding Taxes	28,900	25,417	(3,483)
Multiply By: Gross Revenue Conversion Factor	1.0015	1.0012	
Recommended Increase	\$28,944	\$25,448	(\$3,496)
Recommended Percentage Increase	113.91%	113.33%	-0.58%

Based on the evidence presented, we find that the OUCC's proposed revenue requirement and rate increase is reasonable and in the public interest.

B. **Specific Findings on OUCC Recommendations.**

(1) **Collection System.** Mr. Parks testified that a majority of Hillview's operations are provided through contracted services. Members of the Board as volunteers oversee utility operations and perform some services. Mr. Parks also testified that the condition of the existing collection system is not known because Hillview does not have an active inspection, cleaning program, or an asset condition survey of its collection system. Accordingly, Mr. Parks recommended that Hillview inventory its collection system, assess its collection system, and budget for sewer maintenance needs.

Mr. Parks recommended that Hillview take the following actions: (1) locate all manholes; (2) conduct televising; (3) develop a segment and manhole asset inventory and management

program; (4) identify and clear system encroachments; and (5) establish a maintenance and repair budget. Hillview did not file a reply disputing Mr. Parks's recommendations. We find that these recommendations are reasonable and they support the continued maintenance of Hillview's collection system. Therefore, we find that Hillview shall implement the five recommendations suggested by the OUCC as provided herein. Hillview shall complete the implementation of the five recommendations by January 1, 2020. Hillview shall file a supplemental status report regarding implementation of the five requirements herein with the Commission in its 2019 Annual Report.

(2) **Wastewater Treatment Plant.** Mr. Parks testified that the original package treatment plant remains in service and Hillview made systematic improvements to it that addressed previous IDEM violations. IDEM closed out the Agreed Order in November of 2017. Mr. Parks testified that the primary problem with the treatment plant is that there is a single treatment tank with no redundancy. Mr. Parks recommended Hillview take steps to be able to respond to tank emergencies and for the future addition of a redundant treatment plant so that the existing steel package plant can be taken out of service and rehabilitated within five to ten years.

Mr. Parks recommended the following four steps: (1) develop a monitoring and emergency response plan; (2) repaint the exterior and all accessible steel surfaces; (3) develop a long-term replacement and repair strategy; and (4) establish a replacement and repair fund. Hillview did not file a reply disputing Mr. Parks's recommendations. We find that these recommendations are reasonable and would help Hillview respond to tank emergencies and be able to plan for the future addition of a redundant treatment plant so that the existing steel package plant can be serviced and rehabilitated. Therefore, we find that Hillview must implement the four recommendations suggested by the OUCC as provided herein. Hillview shall complete the implementation of the four recommendations by January 1, 2021. Hillview shall file supplemental status reports regarding implementation of the four requirements herein with the Commission in its 2019 and 2020 Annual Reports.

(3) **Other Considerations.**

(a) **Administrative Dissolution with the Secretary of State.** Mr. Malan testified that Hillview is facing Administrative Dissolution because Hillview has not filed its Business Entity Report with the Indiana Secretary of State by August 31, 2018, as required. Mr. Malan recommended that the Commission require Hillview to file its Business Entity Report with the Secretary of State's office within 30 days of the issuance of the Commission's Order in this Cause. Hillview did not reply to Mr. Malan's recommendation nor did Hillview explain why it failed to file its Business Entity Report with the Indiana Secretary of State as required.

The Business Entity Report is referred to as the "biennial report" in Indiana statutes. Pursuant to Ind. Code § 23-1-46-1, the Secretary of State may commence a proceeding to administratively dissolve a corporation if a corporation, in part, does not deliver for filing its biennial report to the Secretary of State within 60 days after it is due. Under Ind. Code § 23-1-46-2, if a corporation is administratively dissolved, it may not carry on any business except that necessary to wind up and liquidate its business and affairs and notify claimants. We find that it is in the best interest of the public that Hillview continue providing wastewater utility service. For

Hillview to continue serving the public, Hillview must file its biennial report with the Secretary of State. Therefore, we order Hillview as follows: (1) file a biennial report with the Secretary of State's office within 30 days of the date of the final Order in this Cause; and (2) file documentation with the Commission under this Cause within ten days of the filing with the Secretary of State's office showing Hillview's compliance with this requirement.

(b) Good Governance Measures. Mr. Malan recommended that the Commission require Hillview to hold an annual meeting along with all other meetings required by Hillview's corporate by-laws. Mr. Malan also recommended that Hillview be required to maintain good business practices as outlined in its corporate by-laws. Mr. Parks recommended Hillview document the operations and maintenance work it performs and to take good governance measures to keep customers informed of its capital needs and actions it is taking. Mr. Parks also recommended that Hillview follow its Utility Rates and Regulations. Hillview did not reply to these recommendations. We find that these recommendations are reasonable and are in the best interest of Hillview and its ratepayers. Therefore, we order Hillview to do the following: (1) hold an annual meeting along with all other meetings and practices required by Hillview's corporate by-laws; (2) document the operations and maintenance work performed; (3) communicate in writing a minimum of once per year with customers about Hillview's capital needs and actions taken; and (4) uniformly follow Hillview's Utility Rates and Regulation. Hillview shall file supplemental status reports regarding implementation of the four requirements herein with the Commission in its 2019 and 2020 Annual Reports.

C. Effect on rates. A flat rate residential customer would experience an increase of \$34.00 per month, from \$30.00 to \$64.00.

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

1. Hillview shall file its biennial report to the Secretary of State within 30 days of the date of the final Order in this Cause and file documentation showing Hillview's compliance with this requirement under this Cause within ten days of the filing with the Secretary of State's office.

2. Consistent with the findings above, Hillview is authorized to increase its monthly recurring rates and charges by 113.33% for an annual net revenue increase of \$25,448 annually, so as to produce net annual revenues of \$47,902.

3. Prior to placing into effect the rates and charges approved herein, Hillview shall file with the Commission's Water/Wastewater Division a schedule of rates and charges in a manner consistent with this Order and the Commission's rules for filing such schedules. Once the Commission's Water/Wastewater Division approves the rate schedule, it shall cancel all prior rates and charges.

4. Hillview shall provide status updates as indicated above regarding its implementation of the OUCC's recommendations regarding the collection system, wastewater treatment plant, and other considerations as provided herein.

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

HUSTON, FREEMAN, KREVDA, OBER, AND ZIEGNER CONCUR:

APPROVED:

JAN 23 2019

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



Mary M. Becerra
Secretary of the Commission