

**ORIGINAL**

Commissioner	Yes	No	Not Participating
Huston	√		
Bennett	√		
Freeman	√		
Veleta	√		
Ziegner	√		

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**APPLICATION OF B & B WATER )  
PROJECT, INC. FOR A NEW ) CAUSE NO. 45810 U  
SCHEDULE OF RATES AND CHARGES )  
FOR WATER SERVICE AND ) APPROVED: OCT 18 2023  
FINANCING APPROVAL )**

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**David E. Ziegner, Commissioner**

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

On November 18, 2022, B&B Water Project, Inc. (“B&B” or “Applicant”) filed a Small Utility Rate Application (“Application”) with the Indiana Utility Regulatory Commission (“Commission”) under Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. On December 5, 2022, Applicant filed proof that its required notice of the Application was published on November 29, 2022.

On December 6, 2022, the Commission’s Water and Wastewater Division issued a Memorandum finding the Application was complete.

On January 13, 2023, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed a Notice of Filing of Customer Comments.

On June 12, 2023, B&B filed an amended Application.

On July 14, 2023, as required by 170 IAC 14-1-4(a), the OUCC filed a report on the Application through the testimony of Margaret A. Stull, Chief Technical Advisor in the Water/Wastewater Division with the OUCC and Shawn Dellinger, Senior Utility Analyst in the Water/Wastewater Division with the OUCC.

On August 14, 2023, B&B filed the rebuttal testimony of Theodore J. Sommer, Partner with London Witte Group, LLC. On September 22, 2023, B&B provided additional closing information concerning its requested financing.

Under Ind. Code § 8-1-2-61.5, a formal public hearing is not required in rate cases involving small utilities with fewer than 8,000 customers unless a hearing is requested by at least 10 customers, a public or municipal corporation, or the OUCC. The Commission received hearing requests from fewer than 10 customers and no request for a hearing was received from a public or municipal corporation or the OUCC. Accordingly, no hearing was held.

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

**1. Commission Jurisdiction and Notice.** B&B 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. The Commission has authority under Ind. Code § 8-1-2-125 to approve B&B's rates and charges. B&B published legal notice of filing this small utility rate case as required by 170 IAC 14-1-2(b); therefore, we find notice of this Cause was given and published as required by law. The Commission also finds the Application satisfies the requirements of Ind. Code § 8-1-2-61.5 and 170 IAC 14-1. Accordingly, the Commission has jurisdiction over B&B and the subject matter of this proceeding and may issue an Order in this Cause based upon the information filed as provided by 170 IAC 14-1-6.

**2. Applicant's Characteristics.** B&B is an Indiana not-for-profit corporation providing water utility service to approximately 1,850 residential customers in Monroe County, Indiana. B&B purchases water from the City of Bloomington, Indiana. Applicant's infrastructure includes three storage facilities with a total capacity of 400,000 gallons, two 350 gallon-per-minute pumping stations, and approximately 75 miles of mains. B&B is operated by a third-party contractor, Bynum Fanyo.

**3. Existing Rates and Relief Requested.** The Commission approved B&B's current rates and charges on October 13, 2016, in Cause No. 44755 U. In the Application as amended, B&B requests authority to increase its water rates across-the-board approximately 50.63% to produce an additional \$375,274 of operating revenue. B&B requests the rate increase be implemented in two phases: 10.2% during Phase 1 and 36.91% during Phase 2. B&B also requests authority to borrow: (1) \$600,000 to be financed through a capital lease with the Hoosier Equipment Lease Program ("HELP") to replace meters, and (2) \$2,000,000 to be financed by a State Revolving Fund ("SRF") loan to replace aging mains.

**4. Test Period.** Applicant's test period for determining revenues and expenses reasonably incurred in providing water utility services is the 12 months ending December 31, 2021. With adjustments for changes that are fixed, known, and measurable, the Commission finds this test period is sufficiently representative of B&B's normal operations to provide reliable data for ratemaking purposes.

**5. OUCR Report.** After review of the Application, the OUCR recommends a 44.64% rate increase as appropriate, producing an annual revenue increase of \$333,101, which is \$42,173 less than B&B's requested increase. The OUCR recommends implementing this increase in two phases: 7.79% during Phase 1 and 34.18% during Phase 2.

Ms. Stull testified the principal drivers for the rate increase are increased operating expenses and increased debt service, which are partially offset by increased operating revenues. Ms. Stull testified the OUCR's pro forma operating revenues reflect higher revenues at current rates because of the OUCR's recommended post-test year customer growth adjustments. Although B&B included an increase of \$1,784 to reflect customer growth during the test year, Ms. Stull also recommended an increase of \$5,154 for post-test year customer growth.

With respect to operating expenses, Ms. Stull testified B&B proposes pro forma operating expense of \$758,421, which is an increase of \$879 over test year operating expense of \$757,542.

Ms. Stull agreed an increase to operating expenses was appropriate. However, she disagreed with Applicant's operating expense adjustments and instead recommended the following operating expense adjustments based on the OUCC's recommended adjustment to customer growth: (1) an increase of \$3,413 to reflect additional purchased water, purchased power, and postage expense; (2) a decrease of \$7,500 to remove non-recurring expenses; (3) a decrease of \$46,031 to reflect the reclassification of capital costs; (4) an increase of \$7,947 to reflect increased costs for B&B's contract with Bynum Fanyo; (5) a decrease of \$4,695 for amortization of the telemetry study costs; and (6) a decrease of \$5,759 for the reclassification of interest expenses. Thus, she recommended a pro forma operating expense of \$704,917.

Ms. Stull also addressed B&B's revenue requirement for extensions and replacements ("E&R"). She testified that B&B requested \$58,488 for its annual E&R revenue requirement, which was calculated as a percentage of its gross utility plant in service. Ms. Stull explained that a not-for-profit utility is only allowed to recover E&R as a revenue requirement, not depreciation expense. She recommended an E&R revenue requirement of \$75,000, which she stated was reasonable based on B&B's need to replace aging infrastructure. She testified that although B&B is proposing to finance \$2,000,000 for main replacement, this amount will only replace 2.5 miles of B&B's 75 miles of mains. Ms. Stull also recommended that B&B's E&R revenue requirement be placed in a restricted fund and that B&B develop an asset replacement plan and begin replacing aging infrastructure.

Mr. Dellinger testified regarding B&B's proposed debt service and debt service reserve requirements. He testified that B&B does not propose to include any debt payments in Phase 1 but proposes to include the following for recovery in Phase 2: (1) existing debt of approximately \$100,000; (2) a \$600,000 capital lease with HELP for the acquisition of new meters; and (3) a \$2,000,000 SRF loan for distribution main projects.

Regarding Applicant's existing debt, Mr. Dellinger recommended that recovery of the debt service begin in Phase 1 rates, rather than waiting until Phase 2 rates because it is an existing expense. As to Applicant's proposed new debt, Mr. Dellinger recommended the Commission approve \$600,000 of debt authority for entering into a capital lease with HELP for the acquisition of new meters. He testified the capital lease is a good solution to Applicant's urgent need to replace the large number of non-functional meters, and B&B will own the meters after five years. This financing provides a means of purchasing the meters at the present time rather than over a five-year period. Mr. Dellinger also recommended the Commission approve \$2,000,000 of debt authority to replace water mains with an SRF loan at an estimated interest rate of 4% and a term of 30 years. He stated B&B's proposed SRF loan terms appear reasonable. He also noted that a debt service reserve requirement is required for the SRF loan and recommended approval of Applicant's proposed debt service reserve of \$23,780.

Additionally, Mr. Dellinger recommended Applicant be required to true-up its proposed annual debt service once the interest rate on its proposed debt is known so B&B's rates reflect the actual cost of the debt. He proposed the following true-up process:

- (1) Within 30 days prior to entering the debt (or as early as practicable), Applicant should submit a filing to include the debt in the revenue requirement to more closely

estimate the costs to be incurred. Applicant may begin charging the estimated Phase 2 rates;

(2) Within 30 days of closing on the loan, Applicant shall true-up rates to actual costs. B&B should update the interest rate and resulting cost on its existing variable rate loan and file updated tariffs;

(3) If there is a delay of more than two months in closing either debt, any overage of actual costs should be placed in a restricted account to reduce the ultimate amount borrowed. If both financings have not closed by December 31, 2024, then the balance in the account should be refunded to ratepayers and the debt authority considered void;

(4) The OUCC should be provided 21 days to review and respond to the true-up filings. Applicant will also have 21 days to respond to any concerns raised by the OUCC;

(5) As soon as a copy of the Preliminary Engineering Report (“PER”) associated with the SRF loan is available, it should be provided to the OUCC and the Commission.

**6. B&B’s Rebuttal Filing.** Mr. Sommer responded to the OUCC’s recommendation that B&B place its E&R funds in a restricted account. He testified that doing so was unnecessary because B&B is a small, not-profit organization with no employees or profit motives. Mr. Sommers stated that B&B is currently replacing failing meters and will not have funds to place in the restricted account. He also testified that B&B will true-up its debt service costs, which will allow the OUCC to review B&B’s expenditures.

**7. Commission Discussion and Findings.**

**A. Applicant’s Borrowing Authority.** Under Ind. Code §§ 8-1-2-76 through -81 and Ind. Code § 8-1-4-1, the Commission has authority to approve a public utility’s proposal to issue bonds, notes, or other evidence of indebtedness payable more than one year from their execution. B&B proposes to enter a capital lease for \$600,000 over five years at a 4% interest rate through HELP to replace all water meters. B&B also proposes to borrow \$2,000,000 through a 30-year SRF loan with an estimated 4% interest rate to replace aging water distribution mains. The OUCC recommended approval of B&B’s requested financing authority as well as a debt service true-up process.

Based on the evidence, the Commission finds B&B should be authorized to enter into the \$600,000 capital lease with HELP and the \$2,000,000 loan through the SRF. The evidence demonstrates that B&B’s proposed capital projects for which the financing will be used are necessary and the proposed financings are reasonable for completing those projects. Specifically, we find that the capital lease with HELP is a reasonable means for financing the replacement of B&B’s meters given the significant number of meter failures it is experiencing in its system. We also find that replacement of aging mains is needed to further reduce B&B’s elevated water losses and the SRF loan will allow B&B to make the necessary improvements.

Regarding the OUCC’s proposed true-up process, the Commission finds that two adjustments should be made to the OUCC’s proposal. First, the Commission is concerned that a

closure date of December 31, 2024, for the SRF loan may provide insufficient time to complete the SRF process given Applicant's estimate of six to ten months for completion of the PER. Therefore, to minimize the potential for B&B having to seek an extension of the financing authority, we find that B&B shall have until December 31, 2025 to close on the SRF loan. Second, we find that B&B should have additional time, i.e., three months instead of two, to close on the financings before being required to place the funds in a restricted account to reduce the borrowing. Accordingly, we find B&B should comply with the following true-up process:

- (1) Within 30 days prior to entering the SRF debt (or as early as practicable but no sooner than 30 days), Applicant should submit a filing to include the debt into the revenue requirement. Applicant may begin charging the estimated Phase 2 rates after approval by the Commission's Water and Wastewater Division;
- (2) Applicant shall true-up rates to actual costs within 30 days of closing on the HELP capital lease and again within 30 days of closing on the SRF loan. B&B should also update the interest rate and resulting cost on its existing variable rate loan and file updated tariffs;
- (3) If there is a delay of more than three months in closing either debt, any overage of actual costs should be placed in a restricted account to reduce the ultimate amount borrowed.
- (4) If the HELP capital lease has not closed by December 31, 2024, then the balance in the account should be refunded to ratepayers and the debt authority considered void. If the SRF loan has not closed by December 31, 2025, then the balance in the account should be refunded to ratepayers and the debt authority considered void;
- (5) The OUCC should be provided 21 days to review and respond to the true-up filings. Applicant will also have 21 days to respond to any concerns raised by the OUCC;
- (6) As soon as a copy of the PER associated with the SRF loan is available, it should be filed under this Cause.

**B. Applicant's Rate Increase.** 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. Under this statute, a reasonable and just charge for B&B's water service is a charge that will produce sufficient revenue to pay all legal and other necessary expense incident to the operation of Applicant's utility system, including the following:

- (1) Maintenance and repair costs.
- (2) Operating charges.
- (3) Interest charges on bonds or other obligations.
- (4) Provision for a sinking fund for the liquidation of bonds or other evidence of indebtedness.
- (5) Provision for a debt service reserve for bonds or other obligations in an amount not to exceed the maximum annual debt service on the bonds or obligations.
- (6) Provision of adequate funds to be used as working capital.
- (7) Provision for making extensions and replacements.

(8) The payment of any taxes that may be assessed against the not-for-profit.

Ind. Code § 8-1-2-125(d). In addition, Ind. Code § 8-1-2-125(d) provides:

The charges must produce an income sufficient to maintain the not-for-profit utility's property in sound physical and financial condition to render adequate and efficient service. A rate too low to meet these requirements is unlawful.

B&B did not dispute the OUCC's recommended revenue or expense adjustments and we find those adjustments to be reasonable. However, based on Applicant's September 22, 2023 Closing Memorandum, it appears that B&B anticipates completing the HELP financing within eight to ten weeks after issuance of this Order. Given this timeframe, we find that inclusion of the HELP financing debt service is more appropriately included in Phase 1 rates rather than Phase 2 rates, subject to the true-up process. Therefore, we find that Phase 1 rates should include an annual debt service for B&B's existing debt and the HELP financing in the amount of \$227,867, subject to the true-up process.

The revenue requirements are compared below from B&B's Application, the OUCC's proposal, and the Commission's finding in this Order.

<b>Overall Revenue Requirement</b>	<b>Per Applicant</b>	<b>Per OUCC</b>	<b>Per IURC</b>
Operating Expenses	\$ 758,421	\$ 704,917	\$ 704,917
Extensions and Replacements	58,488	75,000	75,000
Debt Service	276,820	276,820	276,820
Debt Service Reserve	23,780	23,780	23,780
Total Revenue Requirements	1,117,509	1,080,517	1,080,517
Less: Interest Income	-	-	-
Other Income	-	-	-
Net Revenue Requirements	1,117,509	1,080,517	1,080,517
Less: Revenues at current rates subject to increase	(741,144)	(746,278)	(746,278)
Other revenues at current rates	(1,570)	(1,570)	(1,570)
Net Revenue Increase Required	374,795	332,669	332,669
Add: Additional IURC Fee	486	432	433
Recommended Increase	<u>\$ 375,281</u>	<u>\$ 333,101</u>	<u>\$ 333,101</u>
Recommended Percentage Increase	<u>50.63%</u>	<u>44.64%</u>	<u>44.64%</u>

Based on the evidence presented and consistent with the Commission's findings above, B&B is authorized to increase its rates and charges by 44.64% to generate additional revenue of \$333,101. This rate increase is to be implemented in two Phases. Phase 1 will increase rates 34.88% and Phase 2 will increase rates 7.24%.

<b>Revenue Requirements</b>	<b>Phase I</b>	<b>Phase 2</b>
Operating Expenses	\$ 704,917	\$ 705,255
Extensions and Replacements	75,000	75,000
Debt Service	227,867	276,820
Debt Service Reserve	-	23,780
<b>Total Revenue Requirements</b>	<b>1,007,784</b>	<b>1,080,855</b>
Less: Interest Income	-	-
Other Income	-	-
<b>Net Revenue Requirements</b>	<b>1,007,784</b>	<b>1,080,855</b>
Less: Revenues at current rates subject to increase	(746,278)	(1,006,552)
Other revenues at current rates	(1,570)	(1,570)
<b>Net Revenue Increase Required</b>	<b>259,936</b>	<b>72,733</b>
Add: Additional IURC Fee	338	95
<b>Recommended Increase</b>	<b>\$ 260,274</b>	<b>\$ 72,828</b>
<b>Recommended Percentage Increase</b>	<b>34.88%</b>	<b>7.24%</b>

The OUCC recommended B&B place its E&R funds into a restricted account. B&B argued that such a requirement was unnecessary because Applicant is using all of its available funds to replace its failing meters and aging infrastructure. We agree with B&B and find no reason to require B&B to use a restricted account for E&R funds. Applicant is a not-for-profit utility and there is no evidence demonstrating inappropriate spending by the utility. Furthermore, the evidence shows that B&B has reported negative net operating income since 2019, which supports B&B's position that operating funds are tight and some financial flexibility for managing day-to-day operations may be necessary. Accordingly, we decline to require the use of a restricted account for E&R funds.

Finally, the OUCC recommended B&B develop and implement an asset replacement plan. We find the development and implementation of asset replacement plans to be reasonable and good utility practice and encourage B&B to do so.

**8. Customer Comments.** We received multiple customer comments expressing concern with the magnitude of B&B's requested rate increase. While we are approving a smaller increase than what Applicant originally requested, we appreciate B&B's customer concerns. However, the capital projects proposed by B&B are reasonable and necessary investments and should lead to a reduction in water losses. We also encourage the utility to proactively engage in more effective communication with its customers to provide a better understanding of the utility's operations and service.

9. **Effect on Rates.** A residential customer using 5,000 gallons per month will experience an increase from \$40.97 to approximately \$55.26 during Phase 1 and an increase from \$55.26 to approximately \$59.26 during Phase 2.

10. **Alternative Regulatory Program (“ARP”).** If B&B elects to participate in the Small Utility ARP in accordance with the procedures approved in Cause No. 44203, the eligible operating expenses and taxes other than income to which the Annual Cost Index will be applied at Phase 2 are \$367,788 and \$3,099, respectively. In addition, E&R of \$75,000 is also an eligible expense to which the Annual Cost Index will be applied. All other components of Applicant’s revenue requirement will remain unchanged.

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

1. B&B is authorized to increase its rates and charges by 44.64%, consisting of a Phase 1 increase of 34.88% and a Phase 2 increase of 7.24%, to generate additional revenues of \$333,101, subject to the true-up process set forth in Finding Paragraph 7.A.

2. B&B is authorized to issue long-term debt in the form of a capital lease through HELP in the amount of \$600,000 and an SRF loan not to exceed \$2,000,000 as approved in this Order.

3. Prior to implementing the rates authorized in this Order, B&B shall file new rate schedules under this Cause for approval by the Commission’s Water and Wastewater Division. For Phase 1, such rates and charges shall be effective upon the issuance of this Order, subject to the Division’s review and agreement with the amounts reflected. For Phase 2, such rates and charges shall be effective upon B&B’s filing to include the debt into the revenue requirement, which is approximately 30 days before closing on the SRF loan, subject to the Division’s review and agreement with the amounts reflected.

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

**HUSTON, BENNETT, FREEMAN, VELETA, AND ZIEGNER CONCUR:**

**APPROVED: OCT 18 2023**

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

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**Dana Kosco**  
**Secretary of the Commission**