ORIGINAL

Commissioner	Yes	No	Not Participating
Huston	√		
Veleta	√		
Ziegner	√		

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF THE TOWN OF MONROVIA, INDIANA, FOR APPROVAL OF A REGULATORY ORDINANCE ESTABLISHING A SERVICE TERRITORY FOR THE TOWN'S MUNICIPAL SEWER SYSTEM PURSUANT TO IND. CODE CH. § 8-1.5-6	**)**	**CAUSE NO. 46239**
	)	**APPROVED: DEC 17 2025**

ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
Loraine L. Seyfried, Chief Administrative Law Judge

On May 9, 2025, the Town of Monrovia, Indiana ("Monrovia" or "Petitioner") filed its Verified Petition with the Indiana Utility Regulatory Commission ("Commission") requesting approval of a wastewater regulatory ordinance under Ind. Code ch. 8-1.5-6. Monrovia contemporaneously prefiled its case-in-chief.

On May 28, 2025, the Board of Commissioners of Hendricks County ("Hendricks County") and the Board of Commissioners of Morgan County ("Morgan County") filed their joint Petition to Intervene. On June 2, 2025, Hendricks County withdrew its Petition to Intervene. On June 18, 2025, the Presiding Officers granted Morgan County's Petition to Intervene.

On July 14, 2025, the Town of Mooresville, Indiana ("Mooresville") filed its Petition to Intervene, which the Presiding Officers granted July 30, 2025.

On July 25, 2025, Morgan County, Mooresville, and the Indiana Office of Utility Consumer Counselor ("OUCC") filed their respective cases-in-chief.

On August 8, 2025, Monrovia prefiled supplemental direct testimony

On August 19, 2025, the OUCC prefiled cross-answering testimony and attachments and Morgan County filed cross-answering testimony. Also on August 19, 2025, Monrovia prefiled rebuttal testimony and attachments.

The Commission conducted an evidentiary hearing in this Cause on September 11, 2025, at 9:30 a.m. in Hearing Room 222, 101 West Washington Street, Indianapolis, Indiana. Monrovia, Morgan County, Mooresville, and the OUCC, each by counsel, attended this hearing, during which their respective exhibits were admitted into the record without objection.

Based upon the applicable law and the evidence herein, the Commission now finds:

1. Statutory Notice and Commission Jurisdiction. Notice of the hearing in this Cause was given and published as required by law. Monrovia owns and operates a municipal utility as that term is defined in Ind. Code § 8-1.5-6-1. Under Ind. Code §§ 8-1.5-6-6 and -9, the Commission has jurisdiction to approve a municipality's regulatory ordinance. Therefore, the Commission has jurisdiction over Monrovia and the subject matter of this proceeding.

2. Petitioner's Characteristics. Monrovia is a municipality located in Morgan County, Indiana. Monrovia owns and operates a municipal wastewater utility, which provides wastewater utility service to the public inside its corporate limits and to certain customers outside its corporate boundaries.

3. Petitioner's Requested Relief. Monrovia requests approval of a regulatory ordinance, specifically Monrovia Ordinance 2025-06 ("Monrovia Regulatory Ordinance"). The Monrovia Regulatory Ordinance states Monrovia's intention to be the exclusive provider of wastewater service to areas within four miles of Monrovia's corporate boundaries as initially described and depicted in Attachment LS-2 to Petitioner's Exhibit 1. ("Proposed Service Area"). During the pendency of this Cause, Monrovia revised its Proposed Service Area by excluding certain territory to accommodate the future expansion plans of Echo Lake Mobile Home Community ("Echo Lake"), and this modification is shown in Attachment LS-4 to Petitioner's Exhibit 1S.

4. Summary of the Evidence.

A. Monrovia's Direct Evidence.

1. Lou Savka. Lou Savka, Senior Technical Advisor at VS Engineering, testified that Monrovia presently serves a combined 915 customers from inside and outside its corporate boundaries. He noted that Monrovia provides wastewater treatment for a portion of the Hendricks County Regional Sewer District's ("HCRSD") customers. Monrovia's treatment plant, originally built in 2000, has a design average capacity of 300,000 gallons per day ("GPD") and a peak capacity of 1.05 million GPD ("MGD"). He explained Monrovia is presently investing $3.71 million to expand the facility's capacity to 450,000 GPD. Mr. Savka sponsored Attachment LS-1 to Petitioner's Exhibit 1, which is a map showing Monrovia's wastewater system, including its existing wastewater facilities.

He stated Monrovia requests the Commission approve the Monrovia Regulatory Ordinance. He said there are no water or wastewater utilities providing service in the Proposed Service Area. He said most of this area is either undeveloped or served by private wells and septic systems. Mr. Savka testified that based on his 26 years of working with Monrovia and its management, he believes Monrovia's wastewater staff is very knowledgeable about Monrovia's existing system and has the requisite technical and managerial capability to operate and maintain the required facilities. He stated that Monrovia is able to provide safe, efficient, and cost-effective service to the Proposed Service Area.

Mr. Savka stated that the Proposed Service Area is a logical extension of Monrovia's existing wastewater infrastructure. He explained that Monrovia has a collection system in place that can be extended or connected with new piping to serve the Proposed Service Area.

Mr. Savka testified that a data center developer recently obtained zoning approvals to site a data center within the Proposed Service Area. He stated that Monrovia's facilities are approximately 2,300 feet from the closest boundary of the data center site. He sponsored Attachment LS-2 to Petitioner's Exhibit 1, which is a map showing the location of the data center site. He indicated that if the data center materializes, the cost of extending services could reach tens of millions of dollars, and it would be the developer's responsibility to cover those expenses.

Mr. Savka explained that on the west side of the Proposed Service Area, additional residential development is being explored. He said Monrovia expects to gain new non-residential customers just outside of its existing corporate limits because land is currently being annexed into Monrovia and there is land currently on the market for light industrial and warehousing. To accommodate this growth, Monrovia is replacing critical treatment equipment at the plant and completing plans for a plant expansion that will add 150,000 GPD to its capacity.

Mr. Savka explained that the Proposed Service Area falls within a four-mile radius of Monrovia's municipal boundaries, stops at the Hendricks County line, and excludes Echo Lake because it has its own treatment facilities that exist solely to serve the residents of that community. He stated Monrovia selected these boundaries for the Proposed Service Area because Monrovia can build infrastructure with sufficient capacity to serve wastewater service customers.

Mr. Savka testified he believes Monrovia will be able to treat the anticipated flows from the Proposed Service Area. He explained that Monrovia has the critical collection system components available to extend service lines and owns sufficient property at its wastewater treatment plant ("WWTP") to expand the plant as needed. Additionally, he said Monrovia's current WWTP expansion can serve some of the new customers in the Proposed Service Area.

Mr. Savka noted three other utilities exist in the vicinity: (1) HCRSD, whose territory is to the north of the Proposed Service Area and located in Hendricks County; (2) Mooresville, located east of the Proposed Service Area, which does not serve anyone in the Proposed Service Area; and (3) the Morgan County Regional Sewer District ("MCRSD"). According to its website, MCRSD's service area is confined to a housing addition in Madison Township and a system that serves Waverly, Indiana. Both areas served by Morgan County are outside the Proposed Service Area. Mr. Savka included with his testimony proof of notice of Monrovia's filing to Hendricks County, Morgan County, Echo Lake, and Mooresville. Mr. Savka testified that efforts by Hendricks County, Morgan County, or Mooresville to serve in the Proposed Service Area would be duplicative and jeopardize Monrovia's significant investment in installing the facilities necessary to serve the Proposed Service Area. He stated that Mooresville, Hendricks County, and Morgan County do not presently have the facilities or capacity to serve the Proposed Service Area.

Mr. Savka testified that the Monrovia Regulatory Ordinance will have a positive impact for the orderly development within this area. He said the presence of Monrovia's wastewater service will make development in the Proposed Service Area more attractive than if the Proposed

Service Area remains treated by septic systems and development will bring additional jobs and investment to the community.

Mr. Savka testified that if the Monrovia Regulatory Ordinance is not approved, multiple utilities could construct duplicative facilities, which would ultimately lead to confusion for property owners and developers, stranded or under-utilized infrastructure, and higher rates for all users in the region.

2. Steven Brock. Steven Brock, financial advisor and principal at Therber Brock & Associates LLP, said Monrovia's financial status is very good. He noted that in 2024, the utility reported operating receipts of $1,069,738.75 and operating disbursements of $777,650.37, which produced net operating receipts of $292,088.38. He added that as of December 31, 2024, the utility has no outstanding debt and a balance in its sewage cash operating fund of $2,166,397.44. He noted that the utility has an application to the Indiana State Revolving Fund ("SRF") making it eligible for SRF financing in the July 1, 2025, to June 30, 2026, SRF funding cycle. He testified that Monrovia has operated in a financially responsible manner, evidenced by its strong financial and cash position. He said Monrovia is well qualified to attract low-interest debt from either an open market bond issuance or through the SRF. As such, Monrovia has the financial ability to serve the Proposed Service Area.

Mr. Brock provided Monrovia's existing rates and charges and explained that customers in the Proposed Service Area will initially pay the existing rates and charges. He said he expects Monrovia will establish reasonable non-recurring charges for service extensions to customers in the Proposed Service Area based on the cost of a requested service extension and the anticipated revenue to be collected from the customers requesting the extension. Additionally, Monrovia intends to work with large load customers in the Proposed Service Area to establish fair and reasonable rates that could be established by a special contract.

Mr. Brock added that Monrovia also has access to funds to make replacements to maintain its system in compliance with all state and federal requirements. He said that extensions into current unserved areas of the Proposed Service Area will be market and development driven. He stated Monrovia will enact extension policies to accommodate future service requests that protect ratepayers and ensure that extensions are not made based on speculative development.

Mr. Brock testified that a Commission order authorizing Monrovia to serve the Proposed Service Area would have a positive effect on Monrovia's rates and charges. He explained that depending on the growth and investments needed to serve the Proposed Service Area, the addition of customers in the Proposed Service Area could result in more customers sharing the costs and expenses of the utility, which could have the effect of mitigating the extent of future rate increases for all customers.

Mr. Brock stated that Monrovia's rates are, and will continue to be, in the middle of the average monthly wastewater bill for customers who use 4,000 gallons. Mr. Brock stated that Monrovia's rates are not designed to produce a profit, and Monrovia has historically been reluctant to impose rate increases that will adversely impact its residents.

B. Mooresville's Direct Evidence. Tom Warthen, Mooresville Town Council member, stated that the Proposed Service Area includes unincorporated areas in Morgan County that overlap area within four miles of Mooresville's town boundaries. As such, he explained the Proposed Service Area includes territories where both municipalities are legally authorized to serve, although no utility is presently serving the area. He said that Mooresville opposes Monrovia being declared the exclusive sewer provider in an area where Mooresville possesses equal service rights and neither municipality is presently serving. He contended that Monrovia's ordinance would foreclose all other options to serve in the overlap area, which is not in the public interest. He said while Mooresville is not opposed to Monrovia providing sewer service in the Proposed Service Area, it should not be provided the exclusive rights. Mr. Warthen contended the Commission should not foreclose the option for other providers to serve in this area as it is still an area of development. He stated that when development does occur in the area, Monrovia should not have the right to serve it to the exclusion of all others, including Mooresville.

C. Morgan County's Direct Evidence.

1. Josh Messmer. Josh Messmer, County Administrator for Morgan County, testified that Morgan County formed MCRSD so that the County can provide sewer utility service to unincorporated areas of the County. He said initially, MCRSD was formed to serve the unincorporated areas of Wiser and Waverly using a conveyance line built for service in Wiser and a treatment plant in Waverly. He added that MCRSD's mission in both areas has been fulfilled, the conveyance line has since been sold, and the County and MCRSD are in the process of executing a sale of the Waverly system to the Town of Bargersville ("Bargersville"). Mr. Messmer stated the original plan was for MCRSD to wind up its affairs and perhaps even dissolve; however, concerns over sewer service to a data center development project have led both MCRSD and the County to determine that MCRSD may be needed.

Mr. Messmer explained that Morgan County and MCRSD have recently enacted Resolution 2025-7-1 and completed the process of expanding MCRSD's boundaries to include the territory covered by the Monrovia Regulatory Ordinance that is the subject of this proceeding. He stated the Resolution has been forwarded to the Indiana Department of Environmental Management ("IDEM"). He said the data center development that would be subject to the Monrovia Regulatory Ordinance now lies entirely within the boundaries of MCRSD.

Mr. Messmer testified the data center is an incredibly important economic development project for Morgan County. He stated that in the beginning stages of development, Monrovia officials were supportive of the project and were working cooperatively with the developer to provide the necessary wastewater treatment service. He testified that intervening municipal elections changed the makeup of the Monrovia Town Council. He stated that when the new Council members took office, Monrovia's position on the data center development changed and collaboration stopped. He stated Monrovia officials and their lawyer actively opposed the rezoning of the property, noting they spoke in opposition to the request at the public hearing. He stated it was not long after the rezoning was approved, Monrovia began the process to have an exclusive sewer service territory declared. Mr. Messmer said the County became concerned that Monrovia was attempting to stop the data center development. Mr. Messmer stated at that point, the County

determined that MCRSD would be needed to ensure that the data center development can receive the necessary sewer service so that the project can move forward.

Mr. Messmer testified that the most viable solution is for MCRSD to provide sewer service to the data center developer in conjunction with HCRSD. He said a new 500,000 GPD plant has been permitted in Hendricks County, which would treat wastewater in HCRSD. Mr. Messmer said that plant is currently proposed to be constructed by Hendricks County Wastewater, LLC, ("HCWW") but for purposes of this new data center development project, it could be constructed by HCRSD. He stated that plant could be expanded to up to 4.5 MGD to include the potential flows from Morgan County. Once expanded, a sewer line could be designed and constructed to interconnect MCRSD's service to the data center development with the expanded plant. Mr. Messmer explained the steps needed to accomplish this solution, including preliminary engineering; a memorandum of understanding between the County, MCRSD, and HCRSD to start the process of that engineering; agreements with the data center developer for service and cost recovery; and agreements between MCRSD and HCRSD.

Mr. Messmer testified that the Monrovia Regulatory Ordinance would foreclose all other options to serve the data center development, which would not be in the public interest. He said Monrovia opposes the data center development, does not have the facilities to serve the data center, has not studied how it would serve the data center, and has not initiated conversations with the developer about service. Mr. Messmer asserted that Monrovia's new WWTP does not have the capacity to serve the data center development. He stated that Monrovia's engineering does not include data center flows, and Monrovia has not contacted the developer to learn what flows need treatment. He stated that, in the past, Monrovia asked Morgan County to pay for the treatment plant expansion costs because Monrovia stated it could not afford to pay for the expansion and Monrovia promised residential ratepayers that rates would not increase.

Mr. Messmer stated Morgan County is not opposed to Monrovia providing sewer service in the Proposed Service Area, but the County opposes providing Monrovia with the exclusive right to serve that territory. He stated that historically, Monrovia has been unwilling to expand its facilities when needed, and the Commission should not foreclose the option for other providers to serve this area. He said that Morgan County does not want to lose out on economic development because sewer service is not available from Monrovia.

Mr. Messmer testified that Mooresville also operates a sewer utility, and the area four miles beyond its corporate boundaries would overlap portions of the Proposed Service Area. He stated that when development occurs in this area, Monrovia should not have the exclusive right to serve it—an equal opportunity should be given to other service providers. He stated that granting an exclusive territory to Monrovia is not in the public interest, especially since Monrovia is not already serving in the area.

2. <u>Mike Dellinger</u>. Mike Dellinger of the Morgan County Economic Development Corporation discussed the economic development activities his organization has been involved in, including the data center development. He testified that this data center campus, in his opinion, would be a positive economic development for the County. He said, in January after the Town Council roster changed, efforts were made to include all town council members in

discussions with the developer and county government officials regarding the project. Such discussions included the forthcoming request to the Board of Commissioners of Morgan County for rezoning of the 391 acres in Monroe Township. He added that due to the nature of the project, the developer required Non-Disclosure Agreements ("NDAs") from individuals who were to receive certain details regarding the project, which was conveyed to the new Town Council members. He then discussed the specific outreach to each individual Monrovia council member.

He testified that after a change in the Monrovia Town Council composition due to elections, Monrovia opposed the data center development. He said Monrovia expressed opposition at a public hearing on the proposal to rezone property for the data center development. He stated that Monrovia is seeking approval of the Monrovia Regulatory Ordinance to kill the data center project, which would deny the area of the economic benefits. Mr. Dellinger said it has always been his objective to include Monrovia as the sewer solution for this project because the development has the potential to solve so many long-standing problems for Monrovia's sewer and water utilities. However, he said Monrovia is hesitant to expand its service capabilities. He said Monrovia should not be able to deny Morgan County the benefits from this economic development project by having itself declared the exclusive sewer provider and denying service.

3. Karen Saavedra. Karen Saavedra, wastewater project manager at American Structurepoint, Inc., testified that she has been working with HCRSD on a new 500,000 GPD plant in Hendricks County. She explained that HCRSD is in the design phase of this new plant. She stated HCRSD received Preliminary Effluent Limits for said plant, but HCRSD has not yet received a construction permit. She said that MCRSD plans to partner with HCRSD, given the need for sewer service for a potential data center development.

Ms. Saavedra testified that HCRSD has been working with HCWW to build the 500,000 GPD plant that would treat the current and projected wastewater from HCRSD. She stated that HCRSD is working to expand the planned plant from 500,000 GPD to 4.5 MGD to include flows from MCRSD. Then, she said, a sewer line could be designed and constructed to interconnect the data center development with the expanded plant.

Ms. Saavedra described the steps that would need to be completed to build the treatment plant. Ms. Saavedra stated HCRSD could size and build the new WWTP simply to serve the wastewater from MCRSD. Ms. Savedra testified that she understands the engineering plans and specifications are approximately 90% complete for Monrovia's plant expansion, and Monrovia is working to fully secure funding. She asserted that actual construction could not be contemplated until funding is secured.

D. OUCC's Direct Evidence. James Parks, Senior Utility Analyst in the OUCC's Water/Wastewater Division, testified that Monrovia appears to have met the criteria identified in Ind. Code ch. 8-1.5-6. He provided an overview of Monrovia and its wastewater utility. He said Monrovia must expand its WWTP capacity to accommodate wastewater flows from new developments within Monrovia's existing corporate boundaries and the Proposed Service Area and future flows from HCRSD, if requested by HCRSD and agreed to by Monrovia. Mr. Parks asserted that Monrovia needs to expand to connect additional developments.

Mr. Parks noted Monrovia is making necessary upgrades to its 300,000 GPD WWTP. He stated it appears Monrovia may not yet have received an IDEM construction permit or obtained financing for the plant expansion. He noted that Monrovia applied for a SRF loan and submitted a supporting preliminary engineering report ("PER"). He stated this PER indicates construction will begin in August 2025, with completion and start-up in 2025. He stated Monrovia's project is currently on the Indiana Finance Authority's July 2025 Project Priority List for a Clean Water SRF Loan and ranked 71st on that list for small systems under 10,000 customers. He said the project costs are listed at $3.4 million, but Petitioner's SRF Loan application lists total project costs of $2,460,000.

Mr. Parks stated Monrovia's current sewer rates are $56.73 and that Monrovia held a public hearing on July 22, 2025, during which the Town Council considered approval of an ordinance to increase rates for non-residential customers. He also noted that Monrovia increased the Availability Fee to $4,650 per Equivalent Dwelling Unit ("EDU"). He noted that the ordinance that increases this fee was not included in Monrovia's case-in-chief.

Mr. Parks noted the Commission has reviewed Monrovia's rates and charges and Asset Management Plan. He explained that in accordance with the requirements of Ind. Code ch. 8-1-1.9, the Commission's Water/Wastewater Division staff conducted a Rates and Charges Sufficiency Analysis and Asset Management Plan review of Monrovia's wastewater operations in 2024. He reported that the Commission's Water/Wastewater Division found Monrovia's rates to be sufficient, that Monrovia had a completed Asset Management Plan, and that Monrovia was addressing its Agreed Order with IDEM. Mr. Parks stated that Monrovia included the statutorily required information in its Petition in this Cause.

Mr. Parks stated that Monrovia is the only utility that has sewer assets in the Proposed Service Area and that the assets consist of 2,000 lineal feet of 8-inch force main. Mr. Parks stated no other municipality has applied for a regulated territory within a portion of Monrovia's requested regulated territory under Indiana Code ch. 8-1.5-6.

Mr. Parks stated that the western corporate boundary of Mooresville and the eastern boundary of Monrovia are approximately four miles apart. He noted the four-mile limit from Mooresville would overlap with the Town of Monrovia's four-mile limit. Mr. Parks contended both sewer utilities could extend wastewater collection and disposal services to this overlap area. He said the 377-acre site for a data center is in the overlap area between Monrovia and Mooresville. Mr. Parks provided a description of the Mooresville wastewater system. He noted that Mooresville has not adopted a regulated territory ordinance that has been submitted to and approved by the Commission.

He testified that Morgan County does not have any wastewater facilities. The MCRSD, an independent political subdivision of Morgan County, has collection sewers and a 60,000 GPD Sequencing Batch Reactor WWTP at Waverly, Indiana near Interstate I-69 in Madison Township. He testified that MCRSD is in the process of selling its Waverly wastewater system to Bargersville and noted that MCRSD is not an intervenor in this proceeding.

Mr. Parks stated Monrovia's existing WWTP is hydraulically loaded near its 300,000 GPD average daily capacity treating wastewater from customers within Monrovia and from its wholesale customer, HCRSD. He stated Monrovia's proposed 150,000 GPD expansion could serve customers in the Proposed Service Area but its capacity could also be allocated for potential developments within Monrovia's town limits. Mr. Parks stated that Monrovia is taking steps to improve and expand the utility's operations. He concluded that Monrovia has met all requirements set out in Ind. Code § 8-1.5-6 and stated that the OUCC does not oppose the Monrovia Regulatory Ordinance.

E. Monrovia's Supplemental Direct Evidence. Mr. Savka provided a revised map at Attachment LS-4 to Petitioner's Exhibit 1S showing Monrovia's revised Proposed Service Area that clarifies that Monrovia does not seek to include in its Proposed Service Area a 24-acre tract adjacent to the Echo Lake that Echo Lake intends to serve in the future. Mr. Savka explained that the original Proposed Service Area included with Monrovia's Petition intentionally excluded the Echo Lake community, which is presently served by Echo Lake's own WWTP. He testified that on or about July 23, 2025, counsel for Echo Lake notified counsel for Monrovia that the Proposed Service Area does not exclude the adjacent 24-acre tract owned by Echo Lake on which Echo Lake intends to provide sewer service via its WWTP to additional, future mobile home units depicted in light blue in Attachment LS-4. Mr. Savka stated that Monrovia was unaware of Echo Lake's ownership of and plans to provide sewer service to the adjacent tract. Following discussion between counsel for Echo Lake and Monrovia, the parties agreed that Mr. Savka would amend his testimony to exempt that adjacent tract from the Proposed Service Area map, Monrovia would offer a Resolution authorizing the revision at the next regularly scheduled Town Council meeting set for August 26, 2025, and that Echo Lake will not seek to provide sewer service to any portion of the Proposed Service Area.

F. OUCC Cross-Answering Evidence. Mr. Parks reiterated that Monrovia has met all the requirements set out in Ind. Code ch. 8-1.5-6. Mr. Parks offered a timeline for relevant actions by Monrovia and MCRSD. He testified that the Morgan County Commissioners sent a July 7, 2025 letter to MCRSD's Board of Trustees requesting additional territory be added to MCRSD ("Additional Territory"). Mr. Parks said Morgan County's letter does not acknowledge that Monrovia, the only entity in the area with an existing WWTP, adopted the Monrovia Regulatory Ordinance on April 22, 2025, and filed its Petition and case-in-chief testimony in this Cause on May 9, 2025, to serve the same territory in question.

Mr. Parks addressed Morgan County's assertion that MCRSD can serve the Additional Territory in an economically feasible manner. He stated that Morgan County presented no testimony regarding the total estimated costs to construct an all-new collection system and wastewater treatment facility to serve the Additional Territory. Nor did Morgan County provide any testimony about the estimated rates it would charge customers for wastewater services. In addition, Morgan County did not show that it would be more cost effective to build a separate wastewater treatment facility in Hendricks County to treat wastewater from Morgan County instead of using the existing and expandable Monrovia WWTP.

Mr. Parks testified that MCRSD's only WWTP, the 60,000 GPD Waverly plant on the other side of the County, is being sold to Bargersville. He said, according to Ms. Saavedra's testimony, MCRSD would route wastewater from its Additional Territory in Monroe Township to a new 4.5 MGD WWTP to be constructed in Hendricks County by either HCWW or HCRSD. He noted that Ms. Saavedra indicated a new 4.5 MGD WWTP could be built in 32 to 34 months and that, according to news reports, the data center construction will take five to eight years. Mr. Parks said that neither Morgan County nor MCRSD prepared a master plan for providing wastewater service to MCRSD's Additional Territory in Monroe Township.

Mr. Parks also addressed Mr. Messmer's proposal for MCRSD to treat the data center's wastewater. He noted that Mr. Messmer asserted that the most viable solution is a new 4.5 MGD plant, which Mr. Parks noted has yet to be approved, designed, permitted, and constructed. Mr. Parks stated Mr. Messmer is incorrect about the permitting status for the proposed HCRSD 125,000 GPD WWTP, noting that a Preliminary Effluent Limits letter from IDEM is not a permit. Mr. Parks noted the Preliminary Effluent Limits establishes the discharge limits for a WWTP based on the engineer's requested design flow and receiving stream into which the treated effluent will be discharged and is the first step in the construction and National Pollutant Discharge Elimination System permitting process. Mr. Parks further noted that Mr. Messmer provided no support for his statement that the proposal is the best option.

Mr. Parks also disagreed with Mr. Messmer's claim that IDEM mandated Monrovia to build a new WWTP. Mr. Parks explained that Monrovia is currently completing an upgrade of its existing 300,000 GPD WWTP and is planning to expand its WWTP 50% for a design average flow capacity of 450,000 GPD.

Mr. Parks testified that neither Monrovia, Mooresville, Morgan County, MCRSD, nor HCRSD have the capacity to treat 4.0 MGD of wastewater from the potential data center development. Additionally, he stated, based upon a data request response, none has existing assets or facilities that could be used to serve the potential data center development. Mr. Parks also noted there is little information as to what flows will come from the data center.

Mr. Parks stated that MCRSD and HCRSD, conceptually, could provide wastewater service to the Proposed Service Area. However, he identified outstanding questions regarding such potential service: (1) at what cost to construct the wastewater infrastructure and operate it long term and (2) whether building two separate WWTPs would have the lowest life cycle cost. He noted that capital costs for a WWTP sized to process wastewater from the potential data center were not identified by either Monrovia or Morgan County. Mr. Parks observed that neither MCRSD nor HCWW and HCRSD, who Morgan County identified as possible entities who would construct and own a planned 4.5 MGD WWTP in Hendricks County, are parties to this proceeding.

Mr. Parks stated that Morgan County did not provide information about what customer rates and charges would be in MCRSD's Additional Territory, which includes the data center site. However, he provided an assessment of the impact on Monrovia's customer rates and charges if MCRSD provided wastewater services in its Additional Territory instead of Monrovia.

Mr. Parks stated that the OUCC does not have sufficient evidence to evaluate Mr. Dellinger's concern that the data center project would not proceed if the Commission approves the Proposed Service Area. He said that economic development could proceed in either Monrovia's Proposed Service Area or MCRSD Additional Territory. He testified that major factors driving where development would occur are the rates and charges for wastewater service and costs due to annexation/taxation.

Mr. Parks stated Monrovia, Morgan County, Mooresville, MCRSD, and HCRSD should seek to minimize duplication of wastewater infrastructure in the areas where overlapping services may occur by exploring regionalization, identifying alternatives to serve growth and developments in the Proposed Service Area, and conducting life cycle cost analysis of those alternatives. He stated that does not appear to be happening, noting that Monrovia is the only governmental entity with a wastewater treatment facility in Monroe Township.

G. Morgan County Cross-Answering Evidence. Mr. Messmer disagreed with OUCC witness Parks' conclusion that Monrovia met the requirements of Ind. Code ch. 8-1.5-6. Regarding the first factor under Ind. Code § 8-1.5-6-8(g), Mr. Messner noted that Mr. Parks acknowledged Mooresville could extend services to the Proposed Service Area and disagreed that Monrovia has made a significant investment in installing facilities necessary to serve the Proposed Service Area. Mr. Messmer stated that this supports his testimony that no utility is in a position to be providing exclusive service in the area. He explained his understanding that there is no requirement for any town to have exclusive service rights. He noted there are at least two other utilities (MCRSD and Mooresville) that would like the opportunity to serve in the area and Morgan County has taken steps for MCRSD to be able to provide such service. Mr. Messmer stated it would not be in the public interest for the Commission to grant Monrovia exclusive rights given these facts.

Regarding the third factor, Mr. Messmer testified that he was unsure whether the OUCC made a specific conclusion regarding economic development. Mr. Messmer reiterated his position that the Monrovia Regulatory Ordinance would not support economic development. He said Monrovia is publicly opposed to the data center development and has been historically hesitant to expand and raise its sewer rates, especially for residential customers.

Mr. Messmer said these facts also bear on the fourth public interest factor—history of service. He testified that Mr. Parks' review supports Morgan County's position, noting that in 2021, Monrovia approved a lower cost WWTP upgrade instead of the planned WWTP upgrade and expansion. Further, he said Monrovia's strategy to cover the costs of the currently planned expansion has been to only raise sewer rates for the business class. Mr. Messmer stated that, although the final ordinance to raise rates has been tabled, if Monrovia continues with this strategy, it will further chill economic development in any territory served by Monrovia.

H. Monrovia's Rebuttal Evidence.

1. Lou Savka. Mr. Savka testified that the Commission should approve the Monrovia Regulatory Ordinance because Monrovia has satisfied the statutory criteria for approval of its Proposed Service Area. He stated Monrovia identified expanding its sewer service

territory in its 2020 Strategic Plan, and it is essential for Monrovia to have certainty on its service rights and obligations so that it may plan its system and financial strategies in the short and long term. Relative to the proposed data center, he said Monrovia is the logical sewage treatment provider because: (1) Monrovia's existing sewer facilities are within 2,200 feet of the data center site; (2) Monrovia has the technical capability to serve the data center, either through its impending WWTP expansion and/or a future expansion on the same WWTP site; and (3) service by Monrovia benefits the residents of Morgan County by keeping revenues for service in the community instead of diverting sewage treatment revenues outside the County as proposed by Morgan County officials. Mr. Savka stated that Monrovia's request is supported by a PER, which provides for the expansion of its WWTP from 300,000 GPD to 450,000 GPD based on the known development occurring inside and outside of the corporate limits. He said the PER was not prepared for purposes of serving the data center or the entirety of the Proposed Service Area. He explained that Monrovia has not yet prepared a study or master plan for the Proposed Service Area because the cost of such a study would likely exceed $70,000. He testified that to be financially prudent, Monrovia would first seek approval for the territory and subsequently undertake planning. He testified he did not believe any other entity in this case had prepared such studies either.

Mr. Savka testified Monrovia has the capability to construct a service line to collect and convey wastewater from customers in the Proposed Service Area to Monrovia's WWTP. He said depending on the timing and flows, Monrovia would either treat flows using the WWTP expansion in progress or undertake an additional expansion to meet demand. He emphasized that the utility is a rate-based entity so income to spend on facilities, including operations, maintenance, and satisfying debt service, is factored into monthly sewer bills. He said to keep user rates reasonable and affordable, there is no line item for costs to extend sewers to undeveloped areas for economic development purposes. Mr. Savka testified he is not aware of any municipal utility of Monrovia's size that extends facilities unless there is a more definitive prospect in the works, and new development typically pays costs associated with its service request. He noted that agencies such as the SRF do not finance infrastructure unless there is a planned development in the works.

Mr. Savka provided an update regarding the status of Monrovia's planned WWTP expansion, noting plans have been submitted to IDEM. He said subsequent documentation has been requested by IDEM to complete its review and approval, and Monrovia anticipates receiving approval and obtaining a construction permit in September. He stated Monrovia is targeting a loan closing in the first quarter of 2026 and an in-service date for the expanded plant before the end of 2026.

Mr. Savka explained that Monrovia has the capacity to provide wastewater treatment to the Proposed Service Area. He stated that when Monrovia's WWTP expansion is complete, taking Monrovia's treatment capacity to 450,000 GPD, Monrovia will have approximately 75,000 GPD of spare treatment capacity, which could provide some level of initial treatment capacity for new connections in the Proposed Service Area. He said, as requests for service that require additional treatment capacity are received, Monrovia has the ability and the land available to expand its plant to serve the Proposed Service Area.

Mr. Savka raised concerns with MCRSD's plan to serve the data center. First, he noted MCRSD's Additional Territory to serve the data center is not consistent with the established purpose of MCRSD. He said MCRSD's expansion references no intent to address existing septic systems or to reduce pollution to warrant the expansion of MCRSD's territory. Rather, MCRSD has carved out an isolated area aimed solely for serving the proposed data center. He noted this will result in a patchwork of sewage treatment providers in a concentrated area that already could be served by Monrovia. He asserted MCRSD does not have a record that suggests it intends to be in the long-term business of providing sewer service.

Mr. Savka addressed Mr. Messmer's suggestion that the intended provider of wastewater treatment would be in Hendricks County. Mr. Savka stated that he did not believe this is in the best interest of the people of Morgan County, particularly when Monrovia has a wastewater treatment facility within 2,200 feet of the data center.

Mr. Savka testified that Monrovia also has the advantages of: (1) owning the property upon which the WWTP expansion would be built; (2) having established electrical service at the WWTP site; (3) possessing a secured National Pollutant Discharge Elimination System permit; (4) having existing lab testing and record keeping facilities at the WWTP site; and (5) owning an existing WWTP that is expandable to meet demand. Mr. Savka testified that the route to and the expansion of Monrovia's WWTP is less costly than the planning and construction of a wholly new WWTP as proposed by Morgan County.

Mr. Savka also testified that Morgan County and MCRSD do not have a promising record for planning and managing its services. For example, he stated that to serve the Waverly area, Morgan County formed the regional sewer district, financed and constructed a 60,000 GPD treatment plant, presumably anticipating future development. Ultimately, he noted that 12 homes and one school are connected to the system. Mr. Savka said when the school is not in session, the plant treats less than 1,000 GPD and cannot operate properly. He also stated MCRSD contracted out the operations to Bargersville because MCRSD could not economically perform those functions and now MCRSD is in the process of selling the plant to Bargersville. By contrast, he said Monrovia has provided good quality sewer service to customers for decades and plans to expand prudently when needed.

Mr. Savka responded to Morgan County's assertion that Monrovia's WWTP expansion would be insufficient to serve the data center. Mr. Savka stated that no one, including Mr. Messmer, knows the precise peak daily average to be generated by the data center. He reiterated that Monrovia has available land for efficient and economical expansion to serve this estimated needed capacity.

Mr. Savka explained that the PER was designed strictly to cover the actual anticipated capacity increase necessary to serve actual known development within Monrovia. He noted that Monrovia has made efforts to gain information about the proposed data center's needs, but Monrovia does not know who the actual developer is, and Morgan County officials have not shared the developer's identity with Monrovia. He said that he does not know of any entity that has officially prepared a PER that includes flows from the proposed data center.

Mr. Savka explained that Monrovia is currently in the process of increasing the non-residential sewer rates by modifying and adding an EDU formulation to the non-residential users that use more treatment capacity than a simple household EDU. He stated this is a fair and equitable way to allocate costs and will bring in additional income necessary to offset an impending rate increase for the plant expansion.

Mr. Savka also responded to Morgan County's and Mooresville's claim that Monrovia should not have exclusive service area rights in the Proposed Service Area because other providers should retain the option to serve there. Mr. Savka testified that Monrovia has acted proactively so that it can plan for growth with certainty. He testified that enacting the Monrovia Regulatory Ordinance is the first logical step in having a definitive service area and once that is accomplished, a plan for serving the area can commence. He emphasized that Monrovia is a municipal wastewater utility with a responsibility to be fiscally responsible with utility funds and undertaking an expensive plan to serve an area that it is not officially obligated to serve would not be prudent.

Mr. Savka discussed Mooresville's and Morgan County's observations that Monrovia's Proposed Service Area overlaps with the four-mile area outside of Mooresville's boundaries. He stated that Monrovia initially considered placing the boundary closer to Mooresville but scaled back the boundary in a genuine effort to find a reasonable point where both Monrovia and Mooresville have an opportunity to serve in the overlapping area. Mr. Savka noted Mooresville indicated it has not conducted plans to serve the Proposed Service Area. He testified that Mr. Warthen and Mr. Messmer urge the Commission to disapprove the Monrovia Regulatory Ordinance and leave the service rights and obligations unclear for all parties, but this is not in the public interest because it eliminates the certainty of each party's service obligations, which impedes the ability of all the parties to prudently plan for the engineering and financial aspects of future expansions.

Mr. Savka testified that if the Commission approves the Monrovia Regulatory Ordinance, then the parties may subsequently agree to modify the Proposed Service Area. He noted that this is a routine practice in Indiana's electric utility context, where electric service providers routinely reach agreements to deviate from assigned service territories where it is appropriate based on a variety of unique situations.

Mr. Savka addressed Mr. Messmer's concern that Morgan County does not want to lose out on economic development because sewer service is not available from Monrovia, noting Monrovia is in the process of permitting a planned expansion and the current Monrovia administration has directed him to move forward with the expansion. Additionally, he said Monrovia understands that if the Commission grants it exclusive authority to provide sewer service in the Proposed Service Area, Monrovia has the obligation to serve there.

Mr. Savka lastly addressed Ms. Saavedra's explanation of HCRSD's plan to have HCWW build a WWTP to serve the data center through a to-be-constructed service line. Mr. Savka noted that the timelines for HCWW's project suggest that the earliest its WWTP construction could begin is 2027. By contrast, Mr. Savka stated Monrovia believes it could appropriately serve the proposed data center sooner, depending on the timing of necessary capacity.

2. Steven K. Brock. Mr. Brock testified that Monrovia has not yet passed any changes to its sewer rates and charges, so there is no updated ordinance to provide as Mr. Parks recommends. He explained that Monrovia residents receive water service from Morgan County Rural Water, which does not share with Monrovia the metered usage of customers. Accordingly, Monrovia presently charges all customers $56.70, regardless of water usage. He noted that Monrovia is considering a modification that would require non-residential users to be charged based on EDUs attributable to their usage categories as guided by IDEM.

Mr. Brock testified about the difficulty in comparing the rates to be charged for service to the Proposed Service Area. He explained that in response to data requests, Morgan County indicated it does not know what rates MCRSD would charge to the potential data center. Morgan County also indicated that it did not have the rate study upon which MCRSD's rates are based. Accordingly, he said it is impossible to provide a comparison. Based on his years of experience with utility ratemaking, he concurred with Mr. Savka's observation that it is reasonable to expect that Monrovia's rates to the Proposed Service Area will be lower than sewer rates of MCRSD based on the proximity of Monrovia's existing wastewater treatment facilities to the Proposed Service Area.

Mr. Brock testified that despite Mr. Messmer's and Mr. Dellinger's assertions, Monrovia can afford and is willing to expand its existing WWTP. He stated their testimony references past decisions made by a different Town Council administration at a different time. He said the current Town Council is moving forward to expand the WWTP and Monrovia intends to provide for the engineering design, construction, and funding associated with the WWTP expansion. He said Monrovia has an excellent history of payments on its debts and expenses, financially manages its utility very well, and has prudently accumulated good fund balances and therefore should have no problem securing SRF or open market project financing.

3. Tamara Everett. Tamara Everett, President of the Monrovia Town Council, testified that Monrovia's Proposed Service Area was identified with the help of Monrovia's consulting engineers by: (1) excluding areas where other sewer providers already had facilities; (2) identifying residents who would most likely need sewer service in the near future in the Lake Bodona neighborhood where many of the homes are fifty years old with failing septic systems; (3) including areas in a four-mile radius and inside Morgan County, such as vacant farm land, that may experience growth and development. She testified Monrovia carefully selected the Proposed Service Area with the intent not to interfere with other existing sewer utilities and to strike a reasonable division of the area where there is an overlap in the four-mile radius of Mooresville's boundaries. With these considerations in mind, she testified that Monrovia passed the ordinance earlier this year after observing that other utilities, including HCWW, appeared to be making plans to provide sewage service to flows that Monrovia is already treating under a long-term contract.

Ms. Everett said the Intervenors' recommendation that Monrovia be denied the exclusive right to serve in the Proposed Service Area conflicts with the goal of regionalization, impairs all parties' ability to plan for logical growth, and will likely result in the unnecessary duplication of utility facilities.

Ms. Everett responded to Mr. Messmer's and Mr. Warthen's concerns about the overlap between Monrovia's Proposed Service Area and the four miles outside of Mooresville. She said she understood these concerns, which is why Monrovia took care to select an area that does not unreasonably infringe on the overlapping area between Mooresville and Monrovia. She testified that Monrovia chose the boundaries based on what it believes are the most likely service preferences of the property owners in the area, and it worked to leave a reasonable amount of territory for Mooresville to serve. Ms. Everett testified that after reading Mr. Warthen's testimony in this proceeding, she contacted him and offered to discuss an adjustment of the boundaries because it is not her intent to upset or offend the neighboring community. Ms. Everett stated that Mr. Warthen indicated that Mooresville is partnering with Morgan County, and that he would discuss Ms. Everett's offer with his attorney. She testified that Mr. Warthen had not contacted her for further discussion.

Ms. Everett stated that Mr. Messmer's testimony is misleading to the extent that it implies that Monrovia's new Town Council leadership refused to collaborate on providing sewer service to the data center. Ms. Everett testified that at the February 10, 2025 data center rezoning meeting, three Monrovia Town Council members asked Morgan County to provide more information so that Monrovia could assess the data center's impacts and discuss Monrovia's provision of sewer service. Ms. Everett stated that on June 6, 2025, she directed Monrovia's Town Manager to arrange a meeting with Morgan County to discuss the data center but did not receive a response from the County. Ms. Everett stated that she again initiated a meeting with Morgan County that resulted in discussions on August 7, 2025. Ms. Everett testified that, while she is hopeful that Morgan County would facilitate conversations with Monrovia and the data center developer to explore resolution of Morgan County's objections, no agreement has been reached.

Ms. Everett testified that the current Town Council leadership has not had discussions with the data center developer because the identity of or the contact person for the proposed data center is unknown. She said that to her knowledge, the Morgan County Economic Development Corporation, through Mr. Dellinger, has coordinated all communication with the developer. She said she believed that before January 2025, Morgan County discussed the data center project with former Monrovia representatives who signed NDAs, including two former Council members, the former Town Manager, and a former member of the Monrovia Town Planning Commission who also served as President of Monrovia's Redevelopment Commission. She stated all these Monrovia representatives either resigned in January 2025 or were not re-elected.

Ms. Everett explained that on or about January 17, 2025, Monrovia filed its Petition to Intervene in Cause No. 46142 before 1:00 p.m. She said that by 3:00 p.m. that same day, she received a phone call from a Morgan County Council member who asked her to sign an NDA so that she could participate in discussions about the data center. Ms. Everett stated she then informed Mr. Dellinger that she was not comfortable signing the proposed NDA based on advice of counsel, but that she would sign an NDA that was mutually agreeable. Ms. Everett stated that she received no further communication from him or the data center until she initiated a meeting on August 7, 2025. Ms. Everett stated that the lack of further discussion between her and the data center developer or Morgan County is not a reflection of any intent to block or refuse service to the data center. She stated that Morgan County has made no effort to negotiate a mutually agreeable NDA.

Ms. Everett testified that she disagreed with Mr. Dellinger's claim that Monrovia officials and their lawyer spoke at the zoning meeting in opposition to the data center's rezoning request. Ms. Everett explained that when she arrived at the meeting, she was required to sign in and indicate whether she was "for" or "against" the rezoning proposal. She said there was no choice for her to indicate that she was neither for nor against the project because she did not have sufficient information to make that determination. She said that in the public comment portion of the February 10, 2025 public hearing, no Monrovia public official or legal counsel actively opposed the rezoning of the data center site. Ms. Everett testified that because the proposed data center is in Monrovia's backyard and neither the data center developer nor Morgan County officials had communicated information or details about the project to the Town Council following the change of administration, she attended the public meeting along with two other Town Council members and outside counsel.

Ms. Everett testified that in enacting the Monrovia Regulatory Ordinance, Monrovia is conveying its intent and obligation to serve every customer inside the Proposed Service Area—including the data center. As such, she disagreed with Mr. Messmer's and Mr. Dellinger's assertions that Monrovia enacted the ordinance to block the proposed data center. She stated that she is supportive of bringing economic development benefits to Morgan County, and to Monrovia. She said this is why Morgan County's plan to send the data center's sewage to HCWW, or alternatively, to HCRSD, makes no sense. She observed that if Monrovia were to serve the data center, the project's economic benefits would remain in Morgan County.

Ms. Everett responded to the two options offered by Morgan County for treating the data center's sewage by noting that the first contender is HCWW, which does not yet have a certificate of territorial authority ("CTA") or approval to build a WWTP, and whose CTA application is opposed by the OUCC and Monrovia. She noted the second contender is that if HCWW's CTA request is denied, then HCRSD will build a WWTP that is sized to serve the wastewater from MCRSD. Ms. Everett testified that neither of these plans is in the public interest or consistent with maximizing Morgan County's economic development opportunities. Ms. Everett stated the construction of a completely new WWTP by either HCWW or HCRSD is an unnecessary, expensive duplication of facilities that is imprudent given that Monrovia has the capability to serve the data center project with an expansion to its existing WWTP that is close to the data center site.

In response to Mr. Messmer's implication that because Monrovia has not had direct discussions with the data center developer, it is not in the public interest for Monrovia to provide sewage service to the project, Ms. Everett stated she does not possess contact information for the key decision maker for the data center project, and it is her understanding that Mr. Dellinger has been the gatekeeper for those conversations.

Ms. Everett testified that Monrovia recognizes and is committed to expanding its WWTP and making improvements necessary to serve customers. She stated she expects that the cost of expanding the infrastructure will be borne by the users on whose behalf such improvements and expansions are made, which can be accomplished in a manner that maintains reasonable rates for all of Monrovia's wastewater customers.

Ultimately, Ms. Everett concluded that Monrovia has the facilities, expansion capability, financial ability, and every intention to work with all customers within the Proposed Service Area, including the data center developer, to provide service.

5. Commission Discussion and Findings.

A. Sufficiency of the Petition. Under the Ind. Code § 8-1.5-6-9(b), a municipality's petition for approval of a regulatory ordinance must contain the following information:

(1) A description of the service territory established in the regulatory ordinance;
(2) Proposed rates and charges for the services to be provided in the service territory;
(3) A list of any administrative or judicial proceedings involving the regulatory ordinance; and
(4) A list of any utilities actually or potentially affected by the regulatory ordinance.

The Monrovia Regulatory Ordinance describes the Proposed Service Area and includes a map that depicts the area, which was later amended to reflect Monrovia's adjustment to accommodate Echo Lake. *See* Pet. Ex. 4 and Ex. 1-S, Attach. LS-4. The Verified Petition indicated that the rates and charges for the services to be provided in the Proposed Service Area are set forth in Attachment SKB-1 to Petitioner's Exhibit 2. The Verified Petition also stated that the Monrovia Regulatory Ordinance is not the subject of any other administrative or judicial proceeding and identified the utilities that may be impacted as including Hendricks County, Indiana Regional Water & Sewer District; Morgan County, Indiana Regional Sewer District; Town of Mooresville, Indiana; and Echo Lake Mobile Home Community.

Mr. Parks testified that Monrovia included the statutorily required information in its Verified Petition. No party offered any legal arguments or evidence that Monrovia did not meet the Ind. Code § 8-1.5-6-9(b) filing requirements.

Based on our review of the Verified Petition, the Commission finds that Monrovia has complied with the filing requirements of Ind. Code § 8-1.5-6-9(b).

B. Determination of the Public Interest. Under Ind. Code § 8-1.5-6-9(c), the Commission is required to resolve all issues presented in a statutorily complete petition, including the enforceability of the regulatory ordinance in the manner that the Commission determines is in the public interest. In making its public interest determination, the Commission shall consider the factors set forth in Ind. Code § 8-1.5-6-8(g), which include:

(1) The ability of another utility to provide service in the regulated territory.
(2) The effect of a commission order on customer rates and charges for service provided in the regulated territory.
(3) The effect of the commission's order on present and future economic development in the regulated territory.

(4) The history of utility service in the regulated territory, including any contracts for utility service entered into by the municipality that adopted the regulatory ordinance and any other municipalities, municipal utilities, or utilities.
(5) Any other factors the commission considers necessary.

As an initial matter, we note that, unlike the Commission's determination under Ind. Code § 8-1.5-6-9(b), the Commission's determination under Ind. Code § 8-1.5-6-9(c) is not an evaluation of whether the municipality has "complied" with each of the statutorily identified factors. Instead, this section of the statute requires the Commission to evaluate the evidence presented in light of the statutory factors to resolve any disputes among the parties with respect to the regulatory ordinance in a manner that is in the public interest. The statute directs the Commission to consider both enumerated factors and other factors it determines are necessary but does not require that any (or every) factor be satisfied or determinative of the Commission's evaluation of whether a regulatory ordinance is in the public interest. Additionally, we note that unlike Ind. Code ch. 8-1-2.3, which establishes exclusive retail service territories for electricity suppliers, the Indiana Legislature has not enacted any statute establishing or requiring indefinite exclusive service territories for wastewater service providers. However, it has encouraged regionalization and/or consolidation of utilities and utility services to maximize efficiency and economies of scale, avoid duplication of facilities, and protect affordability. *See e.g.,* Ind. Code ch. 8-1-30.3; .

Given this background, we address our consideration of the statutory factors below.

1. <u>Other Utilities' Ability to Serve the Regulatory Territory</u>. The first factor to be considered by the Commission is the ability of another utility to provide service within the Proposed Service Area. No utility is currently providing wastewater service within the Proposed Service Area, but all utilities involved in this proceeding have expressed a desire to be able to provide service in at least a portion of the area. Additionally, while Monrovia seeks to be the exclusive wastewater service provider in the Proposed Service Area, both Morgan County and Mooresville object to Monrovia having exclusive authority. Mooresville objects to Monrovia having the exclusive authority to serve where the four-mile boundaries of Mooresville and Monrovia overlap. Morgan County, on the other hand, objects to Monrovia having the exclusive authority to serve the Proposed Service Area, primarily due to concern that Monrovia is opposed to a proposed data center in the area.

Monrovia evaluated providing service to the Proposed Service Area as part of its Strategic Plan. In determining the Proposed Service Area, Monrovia indicated that it attempted to identify an area that: (1) did not unreasonably infringe on the overlap with Mooresville, (2) did not duplicate service already offered by others, including Echo Lake, (3) included areas where future development is reasonably expected, and (4) included areas with failing septic systems.

The evidence supports that Monrovia has the technical, managerial, and financial capabilities to provide wastewater service in the Proposed Service Area. Although Monrovia has not prepared a master plan or other study to determine how it will provide service for the entire Proposed Service Area or to the proposed data center, it has recently taken steps to improve and expand its utility operations, including the expansion of its WWTP from a design average capacity

of 300,000 GPD to 450,000 GPD. The expansion is to serve known development occurring both inside Monrovia's city limits and outside city limits. Monrovia anticipates placing the plant in service by the end of 2026, and once the WWTP is in service, Monrovia expects to have approximately 75,000 GPD of excess treatment capacity, which could be used to serve new connections in the Proposed Service Area.

Morgan County provided evidence that in July 2025 it expanded MCRSD's territory by passing the appropriate resolution and notifying IDEM. The expanded territory includes the entire Proposed Service Area.[1] Although the MCRSD is in the process of selling its 60,000 GPD WWTP and was winding down its utility operations, concerns over the provision of wastewater service to a proposed data center led Morgan County and MCRSD to reconsider these actions.

The evidence shows that Morgan County's plan to provide wastewater service to the data center site consists of a series of to-be-negotiated agreements between MCRSD, HCRSD, and the data center, whereby HCRSD could build a new 500,000 GPD plant in Hendricks County that could later be expanded to 4.5 MGD to treat flows from the data center. Morgan County also generally identified steps it would need to complete to build a WWTP and indicated a sewer line could be designed and constructed to interconnect MCRSD's service to the data center. No formal plan or cost estimates were provided.

Mooresville did not offer any evidence concerning its ability to provide wastewater service inside the area where its four-mile boundary overlaps with Monrovia's Proposed Service Area. Instead, Mooresville contends that approval of the Monrovia Regulatory Ordinance would foreclose all other options for wastewater service in the overlap area and is not in the public interest because it is an area of development and equal opportunity to serve should be given. OUCC witness Parks, in disagreeing that no other utility has the capability to provide wastewater service in the Proposed Service Area, noted that Mooresville could extend infrastructure into the overlap area, which includes the area of the proposed data center. He noted that Mooresville's wastewater system includes a 3.5 MGD WWTP.

2. Effect on Rates and Charges. Initially, Monrovia proposes to charge customers in the Proposed Service Area the same rates and charges as its existing rates and charges, which are reflected in Petitioner's Exhibit 2, Attachment SKB-1. Mr. Brock explained that the addition of customers in the Proposed Service Area could result in more customers sharing the costs and expenses of the utility, which could have the effect of mitigating the extent of future rate increases for all customers. OUCC witness Parks also noted that with the loss of customers to Morgan County, HCRSD, or MCRSD, Monrovia would lose any benefits from economy of scale.

Monrovia is also currently in the process of increasing the non-residential rates by modifying and adding an EDU formulation to the non-residential users that use more treatment capacity than a simple household EDU to ensure costs are fairly and equitably allocated. Ms. Everett also noted that Monrovia expects the costs of any needed expansion of its wastewater facilities to be borne by the users on whose behalf the improvements are being made.

[1] Morgan County's territory expansion does not supersede the Commission's jurisdiction and authority to evaluate and approve the Monrovia Regulatory Ordinance. *See Delaware Co. Reg'l Wastewater Dist. v. Muncie Sanitary Dist.*, 151 N.E.3d 1238, 1246 - 1248 (Ind. Ct. App. 2020).

Neither Morgan County nor Mooresville provided any evidence of the impact on rates of their respective service to the Proposed Service Area.

3. Effect on Economic Development. The majority of the evidence presented in this Cause revolved around the impact that approval of the Monrovia Regulatory Ordinance as proposed would have on economic development in the area, particularly with regard to the proposed data center. As noted above, Monrovia is planning and taking steps to begin providing service to known development within the Proposed Service Area. Monrovia also provided testimony that it has a collection system in place that can connect service at several points in its existing system to serve other areas across the Proposed Service Area as development occurs.

Monrovia asserts that approval of its regulatory ordinance will have a positive impact on economic development because it will make development in the Proposed Service area more attractive than if wastewater is treated with septic systems. Approval will also provide certainty regarding the wastewater service provider, avoid potential duplication of facilities, and support planning of wastewater facilities to serve future development. In addition, as indicated above, Monrovia is also exploring changes to its rates and charges to differentiate between residential and non-residential users to ensure costs to provide service are fairly allocated between users.

Neither Mooresville nor Morgan County refuted evidence from Monrovia that the Proposed Service Area includes areas of potential economic development beyond the proposed data center area. Nor did either party express an interest in serving any specific economic development opportunities, other than the proposed data center. Mooresville, however, did express a general interest in having the opportunity to serve within the overlapping territory.

Morgan County asserts that approval of the Monrovia Regulatory Ordinance will not have a positive effect on economic development, based primarily upon recent actions by Monrovia concerning development related to the proposed data center. Morgan County argues that Monrovia's actions demonstrate that it is opposed to the data center and raised concerns that Monrovia will either refuse to expand its facilities to provide wastewater service or raise its wastewater service rates, which would have a chilling effect on economic development.

4. History of Utility Service. The evidence demonstrates that there is no history of wastewater service by any utility within the Proposed Service Area, as the area is largely undeveloped or served by septic systems. In addition, no evidence was offered to show that any utility has entered into any contracts with any customer or potential customer, specifically the proposed data center, in the Proposed Service Area for wastewater service. OUCC witness Parks, however, testified that Monrovia is the only utility with sewer assets, which are limited, in the Proposed Service Area.

5. Other Factors. In evaluating whether approval of the Monrovia Regulatory Ordinance is in the public interest, the Commission may also consider other factors that it determines necessary. In *Town of Huntertown, Ind.*, Cause No. 44519, at 53-54 (IURC May 20, 2015), the first case wherein the Commission considered whether a regulatory ordinance for an exclusive utility service area was in the public interest, the Commission noted that it had previously addressed service area disputes under other statutes, including Ind. Code §§ 8-1-2.3-

6(a)(3) and 8-1-2-86.5.[2] The Commission noted that many of the factors it considered in service area disputes were similar to, or subsets of, the factors enumerated by the Indiana Legislature for review of regulatory ordinances. Those factors included: existing utility service, the need for utility service, customer preference, logical growth of facilities and utilization of existing facilities, annexation plans, existence of fair competition, duplication of facilities, adequacy and reliability of service, and economic feasibility of service. Thus, the Commission reviewed the regulatory ordinance by considering both the statutory factors set forth in Ind. Code § 8-1.5-6-8(g) and other factors previously considered in other service area disputes.

We have also recognized that prior Commission orders may provide some guidance related to resolving disputed issues between utilities, but each case presents unique facts and circumstances that must be considered in reaching its decision. *Kosciusko Rural Elec. Membership Corp.*, Cause No. 43507, at 4 (IURC April 15, 2009). As such, the factors considered by the Commission are neither mutually exclusive nor all inclusive.

a. Proximity of Existing Facilities. Monrovia witness Savka testified that Monrovia does not have a collection system outside its corporate limits but does have a collection system in place that can be extended to or connected with new piping as development occurs. OUCC witness Parks also noted that Monrovia has a 2,000 lineal foot segment of force main in the Proposed Service Area that conveys wastewater from HCRSD's McCracken lift station near Monrovia's northern corporate boundary. Neither Mooresville nor Morgan County presented evidence concerning the proximity of existing facilities to the Proposed Service Area. However, the evidence does show that the western corporate boundary of Mooresville and the eastern boundary of Monrovia are approximately four miles apart.

Regarding the 377-acre proposed data center site, Monrovia presented evidence that the site is 2,300 feet from its existing facilities. However, no evidence was offered concerning the sufficiency of those existing facilities to be used to provide service to the proposed data center. Neither Morgan County nor Mooresville addressed the proximity of any existing facilities to the data center site.

b. Duplication of Facilities. The evidence demonstrates that no wastewater utility is providing service within the Proposed Service Area and that Monrovia is the only utility with limited facilities in the area. However, the evidence also shows that Monrovia is beginning to address development in the Proposed Service Area and has begun expanding its WWTP to serve known development outside its corporate boundaries. Because Mooresville has also indicated a desire to provide wastewater service in the overlapping area, there is the potential for duplicating facilities in that area.

Morgan County, however, appears to be primarily interested in possibly providing wastewater service to the proposed data center. Although each of the utilities involved in this proceeding have expressed some interest in providing, or willingness to provide, wastewater service to the proposed data center, the evidence demonstrates that none of the utilities have facilities in place to provide wastewater service to the proposed data center and such service would require either the development of a new WWTP or the expansion of an existing WWTP.

[2] Ind. Code § 8-1-2-86.5 was repealed in 2014 when the Indiana Legislature enacted Ind. Code ch. 8-1.5-6.

c. Regionalization. We have previously recognized that Indiana's public policy supports regionalization of water and wastewater utility services where feasible. *Town of Demotte, Ind.,* Cause No. 45444 at 15 (IURC July 28, 2021). Because the Indiana Legislature has not enacted laws establishing assigned service territories for water and wastewater utilities, regionalization of such services maximizes efficiency and economies of scale to protect affordability. Without exclusive service territories, an area can become subject to random, sporadic, and reactionary approaches to providing utility service for growth that results in a patchwork of providers and duplication of facilities. Ideally, through regionalization efforts and cooperative planning among existing utilities, duplication of infrastructure would be minimized in the areas where overlapping services may occur through the identification of alternatives to serve growth and developments and conducting life cycle cost analyses of those alternatives.

In *City of New Albany, Ind.*, Cause No. 44860 (IURC Apr. 25, 2018), the Commission approved a regulatory ordinance based upon a settlement agreement between two utilities that worked cooperatively to achieve a planned approach to providing service in the regulated territory. We noted that the parties' cooperative approach would improve communication with potential customers about their designated provider, support future development, allow the parties to prudently plan for future capacity, and avoid duplication of service. *Id.* at 14. Although each of the parties in this case have indicated a desire to work cooperatively with each other concerning the provision of service in the Proposed Service Area, there is very little evidence to support those assertions, particularly with respect to the proposed data center.

d. Customer Preference. No potential customer sought to intervene in this proceeding and no evidence was offered concerning customer preference for wastewater service by a particular utility. However, as noted earlier, much of the evidence in this case centered around a proposed data center. We are well aware of the potential benefits and risks associated with data center development as it relates to utility service and the polarizing views of those at the local level that can accompany a proposal by a data center to locate in the area. Not only can data centers require large amounts of energy, but they may also require large volumes of water. Thus, they may pose a significant risk to other existing customers should the utility make a significant capital expenditure to serve the data center that ultimately does not materialize or closes before the costs can be recovered.

Although Monrovia witnesses expressed their understanding that with an exclusive service area comes an obligation to provide service, Morgan County offered evidence that does raise concern with the extent to which Monrovia is supportive of the proposed data center. We also note that no evidence was provided by any party concerning the estimated costs to provide wastewater service to the proposed data, the timing at which the utility could provide service upon request, or the possible terms and conditions upon which service may be offered to the proposed data center.

C. Conclusion. Based on the evidence presented, we find that the public interest would not be served by approving Monrovia's request to be the exclusive wastewater service provider in the entire Proposed Service Area and, more specifically, the area of the proposed data center. The evidence demonstrates that Monrovia is the only utility that will soon begin to provide service in the Proposed Service Area and is expanding its WWTP for such service. Although the evidence supports that Mooresville and, to a lesser extent, MCRSD have the

capability to provide wastewater service in the Proposed Service Area, neither have demonstrated they have a plan or are implementing a plan to begin providing wastewater service in the area, except for the proposed data center site.

We agree with OUCC witness Parks that, ideally, Monrovia, Mooresville, MCRSD, and HCRSD would seek to minimize duplication of wastewater facilities in the areas where overlapping service may occur through regionalization, identifying alternatives to serve anticipated growth, and conducting a life cycle cost analysis of the identified alternatives. However, as he noted, this does not appear to be happening. Instead, the evidence demonstrates a lack of cooperation between the utilities. In the absence of a unified regional plan, Monrovia's request for exclusive authority to serve in the Proposed Service Area, except for the proposed data center area that we discuss further below, will minimize the potential for duplication of facilities, which should minimize costs to customers and address affordability concerns. It will also assist Monrovia in planning for the expansion of its wastewater system, which it is currently undertaking, and provide certainty for potential developers regarding the cost of service, which should have a positive impact on economic development.

While the Commission is not approving the Monrovia Regulatory Ordinance, we urge Monrovia to follow through on the commitment made by witnesses Everett and Savka that Monrovia's exclusive right to provide wastewater service in the approved area does not foreclose an adjustment to its service area. As development in the area begins to occur, we encourage Monrovia to reach out and collaborate with other utilities in the area to effectuate the goals associated with regionalization of utility service, e.g., avoiding duplication of facilities and the provision of cost-effective service. The utilities could also consider entering into inter-local agreements that detail the circumstances and/or procedures for collaboration on the provision of service in particular areas, which should provide some certainty during political change.

As for the proposed data center, we find the public interest is better served if the Monrovia Regulatory Ordinance was modified to remove the exclusivity of wastewater service in a manner that fosters the competitive pursuit of providing service to the proposed data center. The evidence presented in this case demonstrates that no utility has developed plans or determined the costs for providing wastewater service to the proposed data center. Monrovia has indicated it will need to expand its WWTP and Morgan County has expressed plans to build a new WWTP. OUCC witness Parks also confirmed that no utility currently has the capacity to provide wastewater service to the proposed data center. Without a defined plan or estimated costs, we lack sufficient information to determine which utility is better able to provide service. Furthermore, as noted above, data center development presents unique and unprecedented challenges for utility service. The developers are also typically large, sophisticated corporations that can, and often desire the ability to, chose from whom to obtain service.

Therefore, Monrovia's request for approval of the Monrovia Regulatory Ordinance is denied. In accordance with Ind. Code § 8-1.5-6-9(d), Monrovia may resubmit in a subdocket to this Cause (i.e., Cause No. 46239 S1) an amended ordinance for approval as discussed above. If Monrovia chooses to do so, any party may file within 30 days an objection as to whether Monrovia has amended its regulatory ordinance consistent with this order and request for hearing. If no

objection and request for hearing is filed, the Commission will proceed to review the amended petition and issue an order.

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

1. Monrovia's Verified Petition for approval of the Monrovia Regulatory Ordinance is denied.

2. In accordance with Ind. Code § 8-1.5-6-9(d), Monrovia may resubmit an amended regulatory ordinance in a subdocket to this Cause as set forth above.

3. In accordance with Ind. Code § 8-1-2-70, Petitioner shall pay the following itemized charges within 20 days from the date of the Order into the state general fund described in Ind. Code § 8-1-6-2(b), through the Secretary of the Commission, as well as any additional costs that were incurred in connection with this Cause:

Commission Charges:	$ 8,885.56
OUCC Charges:	$ 4,904.78
Legal Advertising Charges:	$ 49.92
Total:	$ 13,840.26

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

HUSTON, VELETA, AND ZIEGNER CONCUR:

APPROVED: DEC 17 2025

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

Dana Kosco

Digitally signed by Dana Kosco
Date: 2025.12.17 10:10:43 -05'00'

Dana Kosco
Secretary of the Commission