**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2018-3003141

Office of Consumer Advocate : C-2018-3003732

:

v. :

:

Borough of Indiana :

**PREHEARING ORDER**

On June 28, 2018, the Borough of Indiana (Borough) filed Supplement No. 11 to Sewer - Pa. P.U.C. No. 1, to become effective September 1, 2018. The Borough, by filing this tariff supplement, seeks Commission approval to implement rate changes that would increase the level of rates that it charges for providing service to its customers.

If the proposed tariff supplement becomes effective, the Borough will benefit from an opportunity to recover an estimated annual increase in base rate revenues of $880,920 from its customers. This represents an approximate 33% increase in the Borough’s annual revenues at present rates. The Borough states that $390,062 of this increase is attributable to customers outside the Borough. This represents an approximate 31.76% increase for customers outside the Borough.

Under the Borough’s filing, the proposed flat monthly rate would increase from $12.57 to $16.72, or by 33%, for service to a single-family resident. Metered service is provided to customers whose water is served by Pennsylvania-American Water Company and appears to apply only to Commercial and Public customers. The proposed rates for customers receiving metered service is a flat monthly rate of $16.72 and a volumetric charge of $4.18 per 1,000 gallons used over 4,000 gallons. Usage over 20,000 gallons is proposed to be $3.46 per 1,000 gallons per month.

The Borough serves approximately 3,216 customers inside the Borough and 3,973 outside the Borough. Of the 3,973 PUC jurisdictional customers, 3,524 are residential. Jurisdictional customers are located in White Township, Indiana County.

On July 31, 2018, the OCA filed a formal complaint (C-2018-3003732) against the proposed increase in rates and a Notice of Appearance. The Bureau of Investigation and Enforcement (BIE) filed a Notice of Appearance on August 16, 2018. On August 23, 2018, the Commission issued an Order initiating an investigation into the lawfulness, justness and reasonableness of the proposed rates, and suspended the effective date until April 1, 2019, by operation of law.

By notice dated August 28, 2018, a prehearing conference was scheduled for September 5, 2018, and this matter was assigned to me for disposition. A prehearing conference order was issued which, among other things, directed the parties to file prehearing memoranda. By email dated August 29, 2018, the Borough notified the Commission that it would participate in the Commission’s mediation process.

Prehearing memoranda were filed by the parties as directed. The prehearing conference convened as scheduled. Counsel for the Borough, BIE, and OCA appeared. This prehearing order memorializes the matter decided and agreed upon by the parties.

**Mediation**

The Borough has elected to participate in mediation and to voluntarily extend the suspension date for the filing to June 1, 2019. A tariff supplement memorializing the suspension date was filed on September 5, 2018.

In the event that no settlement is reached, evidentiary hearings will be held in Harrisburg on January 15 and 16, 2019.

A further prehearing conference is scheduled for **October 31, 2018 at 10:00 a.m.** At that time the parties will report the status of their negotiations. In the event that the matter is not settled, the parties shall file a proposed litigation schedule which contemplates the filing of reply briefs on or before **February 15, 2019**. A proposed litigation schedule, if one is necessary, shall be filed no later than **2 p.m. on October 30, 2018.**

The above-stated dates are in-hand dates for service on the parties and the Presiding Administrative Law Judge (ALJ). The parties and the Presiding ALJ agree to accept email transmission of such material, so long as the subject email is received by 4:00 p.m. on the date due and provided the email is followed the next business day by sending **one** hard copy of the same material via first-class mail postage prepaid to the parties. The email address of the Presiding ALJ is malong@pa.gov. The Presiding ALJ will not accept facsimile transmissions greater than ten pages in length without prior authorization. If in doubt, please call (412) 565‑3550.

**Parties**

As of the date of this Order, the entities named above are the only parties involved in this case. The parties are directed to monitor filings with the Commission’s Secretary’s Bureau and advise the undersigned of any additional formal complaints filed after the date of this Order. A Service List of these parties is appended to this Order.

**Public Input Hearings**

At present, no party has identified substantial public interest in conducting a public input hearing in the Borough’s service territory. If consumer interest arises, however, the parties are hereby directed to give this matter their prompt attention and notify the Presiding ALJ immediately of the change in circumstances.

## Issues

In their respective prehearing memoranda, the parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues. Additional issues may arise as the discovery process unfolds.

**Discovery**

The parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa.Code § 5.322. If this process fails, the parties have recourse to the Commission’s procedures for formal discovery, as herein modified. 52 Pa.Code §§ 5.321, *et* *seq*. The parties must not send the presiding ALJ discovery material or cover letters, unless attached to a motion to compel. All motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally. If a motion to compel fails to contain such certification, the presiding ALJ will contact the parties and direct them to pursue informal discovery.

BIE requested modification of the Commission’s procedures for formal discovery. In order to provide the parties with sufficient information in which to enhance settlement discussion, the requested modifications are hereby granted. It is understood that the Borough has limited staff and will make best efforts to comply with the shortened discovery deadlines. The parties are expected to communicate frequently regarding the exchange of discovery.

The following modified discovery procedure applies to this case:

1. The response period for replying to written interrogatories, requests for production and requests for admissions is within ten (10) calendar days of receipt, unless otherwise indicated.  Responses may be served electronically but hard copies must follow by first-class mail.  For purposes of tracking due dates, discovery served on a Friday after 12:00 p.m. shall be deemed to have been served on the following business day.

2. Objections to interrogatories, requests for production and requests for admissions are to be communicated orally to the propounder within three (3) calendar days of receipt and in writing within five (5) calendar days of receipt. The parties are directed to confer, by telephone or email, and attempt to resolve the objections.

3. Motions to dismiss objections and compel responses shall be filed and served on the ALJ and other parties within three (3) calendar days of receipt of the written objections.  Answers to such motions shall be filed and served within three (3) calendar days after filing of the motion.

4. Any discovery-related pleading such as objections, motions, or answers served on a Friday or the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

Pursuant to 52 Pa.Code § 5.341(b), neither interrogatories nor responses are to be served on the Commission or the ALJ, although a certificate of service may be filed with the Commission’s Secretary.

**Settlement and Stipulations**

The parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa.Code § 5.231(a). The parties are strongly urged to seriously explore this possibility. Submission of a joint settlement petition executed by representatives of all parties, together with all parties’ statements in support of Settlement, must be filed with the Secretary for the Commission and received in-hand by the Presiding ALJ no later than the close of business on **February 15, 2019.**

If settlement is not feasible, the parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve precious administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234. All stipulations entered into by the parties must be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearings in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

**Briefs and Reply Briefs**

All briefs or statements in support of a joint petition for settlement, must conform to a common outline. The parties must comply with 52 Pa.Code §§ 5.501, *et* *seq*., regarding the preparation and filing of briefs. Briefs must include proposed findings of fact, with citations to the record, and proposed conclusions of law. Page limitations on briefs will be discussed on or before the last day of hearing. Where possible, the parties shall submit to the presiding ALJ **one hard copy** of their briefs and one copy by email. The electronic version of a brief must be prepared on an IBM compatible system in *Microsoft Office Word 2016* format or in an earlier version of this software application. If in doubt, please call the office of the presiding ALJ for clarification.

**IMPORTANT NOTICE**: All briefs **must** conform to the “Instructions for Briefs” attached hereto as Appendix A and made a part of this order. **Rate Case Tables** electronically provided to the parties by email dated September 5, 2018, **must** be used by the Borough and all parties in this proceeding. A party’s failure to follow these instructions in the smallest detail will result in non‑consideration of that party’s position, regardless of where the record may support it or the position of any other party to this proceeding. Your anticipated cooperation will be appreciated.

**Modification**

Any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

Date: September 5, 2018 /s/

Mary D. Long

Administrative Law Judge

**APPENDIX A**

**INSTRUCTIONS FOR BRIEFS**

Each brief shall follow the general organization shown herein.

Adjustments contained in each brief shall:

1. Be based on a specific test year, to be selected before the close of record;
2. be complete and self-contained;
3. include accurate reference to the appropriate record sources;
4. be on a before-income-tax basis;
5. be detailed to demonstrate the step-by-step calculation of that adjustment together with appropriate accurate record references;
6. include concomitant rate base, revenue, expense, depreciation expense, and tax adjustments set forth, together with the details of their calculation;
7. include with the brief those calculations which are the basis for proposed adjustments, but which are incomplete on the record.

Tables showing all proposed rate base and income adjustments shall be submitted with each brief which includes such adjustment.

STANDARD FORMAT

1. Introduction
2. Summary of Argument
3. Rate Base
4. Fair Value
5. Plant in Service
6. Depreciation Reserve
7. Additions to Rate Base
8. Conclusion
9. Revenues
10. Expenses
11. Taxes
12. Rate of Return
13. Miscellaneous Issue(s)
14. Rate Structure
15. Cost of Service
16. Revenue Allocation
17. Tariff Structure
18. Summary and Alternatives
19. Conclusion

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*Revised 8/29/18*

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