

ORIGINAL

Commissioner	Yes	No	Not Participating
Zay	√		
Deig	√		
Swinger			√
Veleta	√		
Ziegner			√

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**PETITION OF THE CITY OF EVANSVILLE,)
INDIANA TO MODIFY THE COMMISSION’S) CAUSE NO. 45545 S2
ORDER IN CAUSE NO. 45545 S1)
CONCERNING IMPLEMENTATION OF) APPROVED: MAY 20 2026
PHASE FIVE RATES)**

ORDER OF THE COMMISSION

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

On March 2, 2022, the Indiana Utility Regulatory Commission (“Commission”) issued its Order in Cause No. 45545 authorizing the City of Evansville, Indiana (“Petitioner” or “Evansville”) to implement new water rates and charges in five phases, issue bonds or other obligations to finance capital infrastructure improvements—primarily for a new water treatment plant project—and file true-up reports with the Commission for any debt issued.

On August 21, 2024, the Commission issued its Order in Cause No. 45545 S1 (“S1 Order”) approving a Stipulation and Settlement Agreement (“Settlement Agreement”) between Petitioner and the Indiana Office of Utility Consumer Counselor (“OUCC”). Among other things, the S1 Order approved Petitioner’s total financing authority of \$271,850,000 and incorporated certain true-up procedures set forth in the Settlement Agreement. Paragraph 2.d.ii. of the Settlement Agreement provides that Petitioner would true-up rates to reflect debt service costs at the time Phase 5 rates are implemented, expected approximately March 2026, pursuant to the true-up process described in Paragraph 2.d.i. of the Settlement Agreement.

On March 31, 2026, Petitioner filed a Motion for Relief from Order (“Motion”) in Cause No. 45545 S1, supported by the Affidavit of Victor Kelson, Director of the Evansville Water and Sewer Utility. The Commission opened this subdocket to address the Motion.

An evidentiary hearing was held at 9:30 a.m. on April 30, 2026, in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, Evansville offered into evidence the Affidavit of Victor Kelson, which was admitted into the record without objection.

Having considered the evidence and applicable law, the Commission finds:

1. Notice and Jurisdiction. Due, legal, and timely notice of the hearing conducted in this Cause was given as required by law. Evansville is a municipally owned utility as defined by Ind. Code § 8-1-2-1(h). The Commission has jurisdiction over changes to Evansville’s water utility rates and charges under Ind. Code § 8-1.5-3-8(f)(2) and to approve its issuances of long-term debt under Ind. Code § 8-1.5-2-19. Further, the Commission has authority to alter or amend its prior

orders. Thus, the Commission has jurisdiction over Evansville and the subject matter of this proceeding.

2. Background and Requested Relief. The Settlement Agreement approved in the S1 Order contemplated the construction of a hybrid water treatment plant solution (“Hybrid Project”) that entailed rehabilitating a portion of Petitioner’s existing water treatment plant and replacing the balance with new facilities. Phase 5 rates were expected to be implemented on or before April 1, 2026, with a concurrent true-up of rates to reflect debt service costs. At the time that the S1 Order was issued, Evansville anticipated that the Hybrid Project would use surface water from the Ohio River as the sole source of water supply.

Since the entry of the S1 Order, Evansville has determined that the best solution for the Hybrid Project is to use surface water as the source of supply for the rehabilitated portion of the Hybrid Project and use groundwater as the source of supply for the newly constructed portion of the Hybrid Project. This pivot to using surface water and groundwater rather than solely surface water caused the timetable for the Hybrid Project to be delayed and the bonds that were anticipated to be issued before April 1, 2026, to be likewise delayed. Evansville further anticipates that the bonds for the Hybrid Project may be issued in multiple issuances.

Petitioner requests relief from the requirement in Paragraph 2.d.ii. of the Settlement Agreement, as incorporated in the S1 Order, and that Petitioner implement its true-up Phase 5 rates in approximately March 2026. Specifically, Petitioner requests authority to: (1) delay implementation of its Phase 5 tariff until such time as its next debt issuance is issued; (2) true-up its tariff for such debt issuance at the time Phase 5 rates are implemented; and (3) true-up its tariff for subsequent debt issuances, consistent with Paragraph 2.d.i. of the Settlement Agreement.

3. Commission Discussion and Findings. The evidence demonstrates that the circumstances contemplated at the time the Settlement Agreement was entered into and the S1 Order was issued no longer exist. The integration of groundwater into the Hybrid Project and the resulting delays in issuing bonds constitute changed circumstances that were not known and could not have been discovered through reasonable diligence at the time the Settlement Agreement was negotiated and the S1 Order was issued.

We find that implementing Phase 5 rates and performing a true-up without having issued the bonds to finance construction of the Hybrid Project would be administratively inefficient and would not align with the intent of the Settlement Agreement that the debt for the Hybrid Project be issued before implementation of Phase 5 rates. Requiring Petitioner to implement its Phase 5 tariff and concurrently true-up without having issued the debt would require Petitioner to file a new tariff and incur the cost and expense of updating its billing system an additional time, only to repeat the process upon each subsequent debt issuance.

We find that delaying implementation of Phase 5 rates until Petitioner’s next bond issuance, and authorizing Petitioner to true-up rates at that time and after each subsequent bond issuance consistent with the procedures set forth in Paragraph 2.d.i. of the Settlement Agreement, serves administrative efficiency, aligns with the original intent of the Settlement Agreement, and is in the public interest.

We note that the OUCC consents to the relief requested, which provides additional support for our finding that the requested relief is reasonable and in the public interest. We further note that, in accordance with our prior orders, any overcollection that results from maintaining Phase 4 rates rather than immediately implementing and concurrently truing up Phase 5 rates will be used to lower the ultimate amount of borrowing required.

Accordingly, we find that relief from the requirement in Paragraph 2.d.ii. of the Settlement Agreement, as incorporated in the S1 Order, is warranted and should be granted.

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

1. Petitioner’s Motion for Relief from Order is granted as set forth herein.
2. Petitioner is relieved from the requirement set forth in Paragraph 2.d.ii. of the Settlement Agreement, as incorporated in the Commission’s Order dated August 21, 2024, in Cause No. 45545 S1, that Petitioner implement its trued-up Phase 5 rates on or before April 1, 2026.
3. Petitioner is authorized to delay implementation of its Phase 5 tariff until such time as its next issuance of bonds to finance construction of the Hybrid Project is issued.
4. At the time of its next bond issuance, Petitioner shall implement its Phase 5 tariff and true-up its rates to reflect actual debt service costs in accordance with the true-up procedures set forth in Paragraph 2.d.i. of the Settlement Agreement.
5. In the event the bond proceeds are secured in more than one issuance, Petitioner shall true-up its rates for each subsequent bond issuance in accordance with the true-up procedures set forth in Paragraph 2.d.i. of the Settlement Agreement.
6. All other terms approved and incorporated in the Commission’s Orders in Cause Nos. 45545 and 45545 S1 shall remain in full force and effect except as modified herein.
7. 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 Commission public utility fund account described in Ind. Code § 8-1-6-2, through the Secretary of the Commission, as well as any additional costs that were incurred in connection with this Cause:

Commission Charges:	\$ 486.41
OUCC Charges:	\$ 992.21
Legal Advertising Charges:	<u>\$ 44.52</u>
Total:	\$1,523.14

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

ZAY, DEIG, AND VELETA CONCUR; ZIEGNER ABSENT, SWINGER NOT PARTICIPATING:

APPROVED: MAY 20 2026

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

**Dana Kosco
Secretary of the Commission**