

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF TWIN LAKES UTILITIES, INC. FOR )  
APPROVAL OF (A) A WATER INFRASTRUCTURE )  
IMPROVEMENT CHARGE ("WIIC") PURSUANT TO )  
IND. CODE CHAP. 8-1-31; (B) A SEWER )  
INFRASTRUCTURE IMPROVEMENT CHARGE )  
("SIIC") PURSUANT TO IND. CODE CHAP. 8-1-31; )  
(C) NEW RATE SCHEDULES REFLECTING THE )  
WIIC AND SIIC; AND (D) INCLUSION OF THE )  
COSTS OF ELIGIBLE INFRASTRUCTURE )  
IMPROVEMENTS IN ITS WIIC AND SIIC )

CAUSE NO. 44646

TESTIMONY OF

GREG A. FOSTER – PUBLIC'S EXHIBIT NO. 1

ON BEHALF OF THE

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

JULY 30, 2015

Respectfully submitted,

  
Daniel M. Le Vay, Atty. No. 22184-49  
Deputy Consumer Counselor

**TESTIMONY OF GREG A. FOSTER**  
**CAUSE NO. 44646**  
**TWIN LAKES UTILITIES, INC**

**I. INTRODUCTION**

1 **Q: Please state your name and your business address.**

2 A: My name is Greg A. Foster, and my business address is 115 W. Washington St., Suite 1500  
3 South Tower, Indianapolis, Indiana 46204.

4 **Q: By whom are you employed and in what capacity?**

5 A: I am employed by the Indiana Office of Utility Consumer Counselor (“OUCC”) as a Utility  
6 Analyst II in the Water/Wastewater Division.

7 **Q: Please describe your educational background and experience.**

8 A: I received a Bachelor of Science degree in Economics from Indiana University in 1992. I  
9 have been a Certified Public Accountant since 2004. After an internship at the Hudson  
10 Institute, I spent three years as an analyst for the commercial lending department of NBD  
11 Bank, currently known as Regions Bank. In 1996, I left NBD Bank and accepted my first  
12 staff accounting position. I continued my accounting education and passed the Uniform  
13 CPA examination in 1999. I have also held positions in the private sector as Assistant  
14 Controller, Controller, and Regional Controller with ADESA, as well as Accounting  
15 Manager and Corporate Controller with J.D. Byrider/CNAC. From January 2007 to  
16 August 2011, I was employed by the OUCC working on and testifying in various gas and  
17 electric cases. Prior to rejoining the OUCC, I was controller for a small private equity  
18 firm and a Senior Staff Accountant in the Business Risk Services division of Clifton  
19 Larson Allen, a public accounting firm in Indianapolis, Indiana. I have attended the  
20 National Association of Regulatory Utility Commissioners’ weeklong seminar in East

1 Lansing, Michigan (“Camp NARUC”), as well as “The Basics of Cost of Capital”  
2 seminar facilitated by New Mexico State University, in Albuquerque, New Mexico. I am  
3 a member of the Indiana CPA Society and the American Institute of Certified Public  
4 Accountants (“AICPA”).

5 **Q: Have you previously testified before the Indiana Utility Regulatory Commission**  
6 **(“IURC” or “Commission”)?**

7 A: Yes. I have testified in causes concerning electric, gas, water and wastewater utilities.

8 **Q: What is the purpose of your testimony?**

9 A: Petitioner, Twin Lakes Utilities, Inc. (TLUI), has requested approval under IC § 8-1-31-1  
10 et seq. of infrastructure improvement charges for both its water and wastewater  
11 operations. I explain the Commission should deny Petitioner’s request in whole or in part  
12 for Petitioner’s failure to make a prima facie case as established by the Indiana  
13 Administrative Code guidelines for recovery under Indiana Code 8-1-31.

## II. DISCUSSION

14 **Q: What did you do to prepare your testimony?**

15 A: I reviewed Petitioner’s testimony and workpapers. I prepared discovery questions and  
16 reviewed the responses. I reviewed the applicable statutes and administrative code  
17 provisions. I reviewed Commission orders in other Distribution System Improvement  
18 Charge (“DSIC”) cases.

19 **Q: Please provide a brief overview of the statute under which Petitioner seeks relief.**

20 A: Ind. Code § 8-1-31-1 et seq. authorizes the Commission to approve infrastructure  
21 improvement charges to allow public water or wastewater utilities to adjust basic rates  
22 and charges to recover depreciation expense and earn a pretax return on eligible  
23 infrastructure improvements. (See IC § 8-1-31-5.2 and IC § 8-1-31-5.5.) As used in

1 Chapter 8-1-31, for public utilities “eligible infrastructure improvements” means “new  
2 used and useful water or wastewater utility distribution or collection plant projects” that  
3 do not increase revenues by connecting to new customers, are in service, and were not  
4 included in the public utility’s rate base in its most recent general rate case. IC § 8-1-31-  
5 5.

6 **Q: Has the Commission expressed through its orders what it considers to be the**  
7 **purpose of Indiana Code § 8-1-31-1 et seq.**

8 A: Yes. In its final order in Cause No. 42351 DSIC 7 (Petition of Indiana-American), the  
9 Commission repeated the statement it made in the first Indiana-American DSIC that “the  
10 purpose of a DSIC proceeding is to encourage, through an expedited and automatic rate  
11 increase, repair and replacement of a distribution system’s aging and failing  
12 infrastructure.” (Order Cause No. 42351 DSIC 7, p. 12 referring to Order Cause No.  
13 42351 DSIC 1, p. 21.)

14 **Q: Do the Commission’s rules support this purpose?**

15 A: Yes. The Indiana Administrative Code (170 IAC 6-1.1-5) establishes what constitutes a  
16 prima facie case for a utility seeking to implement a distribution system improvement  
17 charge. Subsection 5(a)(1) establishes that in order to make a prima facie case a utility  
18 must submit “[a] description of the DSIC project, an explanation of why the project is  
19 needed, the benefits resulting to the utility and its customers upon completion of the  
20 project, and the age of the plant that was retired.” Moreover, subsection 5(a)(6) requires  
21 a “statement regarding whether the utility plans to replace other distribution infrastructure  
22 in the next five (5) years and a general outline of any such plans.” This provision also  
23 underscores the nature of the statute to promote proactive measures. Reading these rule  
24 requirements together with the Commission’s expression of the purpose of the statute (i.e.

1 that the utility be encouraged to replace aging infrastructure), eligible infrastructure  
2 improvements should be the result of planning, and not simply a reaction to main breaks.  
3 It also indicates each project's inclusion must be justified with specific facts. As a  
4 practical matter, this required level of specificity suggests that the infrastructure  
5 improvements should be sufficiently material to justify the level of detail required.

6 **Q: Did Petitioner include in its case a description of the projects, an explanation of why**  
7 **the project is needed, the benefits resulting to the utility and its customers upon**  
8 **completion of the project, and the age of the plant that was retired?**

9 A: No. To the end, Petitioner's case does not identify any discrete projects. Rather,  
10 Petitioner lists many pages of entries by accounts without indicating a common project.  
11 (See Petitioner's BTH-1.) Petitioner's BTH-1 seemingly groups line items by Asset ID.  
12 However, the term "Asset ID" represents "the asset number assigned to the purchase for  
13 purposes of depreciation." (See Attachment GAF-4 - IWSI's Response to OUCC DR 2-  
14 13, Cause No. 42743-DSIC 3.) Thus, the "Asset ID" does not serve as a project  
15 description. Petitioner has not identified or described any discrete projects by means of  
16 the "Asset ID." Without identifying any discrete projects in its case, Petitioner cannot  
17 describe the project, explain why the project is needed, explain the benefits resulting to  
18 the utility and its customers, or disclose the age of the plant that was retired. Petitioner  
19 has not made a prima facie case for the eligibility of Petitioner's line items as required by  
20 170 IAC 6-1.1-5. Likewise, Petitioner has not made a prima facie case for the  
21 reasonableness of the charges it seeks to impose, for which the rules also indicate a prima  
22 facie case must be made.<sup>1</sup>

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<sup>1</sup> 170 IAC 6-1.1-5(b) states that "By submitting documentation in compliance with subsection (a), the utility makes a prima facie case for the eligibility of the improvements and the reasonableness of the charges." (emphasis added.)

1 **Q: Is the DSIC mechanism suited to complicated applications?**

2 A: No. In its final order in Indiana-American's first DSIC (Cause No. 42351 DSIC 1), the  
3 Commission noted the abbreviated nature of DSIC proceedings:

4 In addition, the Public is under a statutory deadline to issue a report to the  
5 Commission, if it chooses to do so, no later than thirty (30) days after the  
6 petition is filed. And the Commission is required to conduct a public  
7 evidentiary hearing and issue an order within sixty (60) days of the DSIC  
8 petition being filed Indiana Code 8-1-31-9. These short time frames are  
9 not indicative of a proceeding that would require any extensive discovery  
10 on the part of the Public or review on the part of the Commission of  
11 complex projects that are often, and appropriately, the subject of  
12 traditional rate case proceedings.

13 (Final order, Cause No. 42351 DSIC 1, p. 16)

14 Petitioner's proposed DSIC presents another kind of complexity that is not appropriate to  
15 the infrastructure improvement charge process. Petitioner has not organized its costs into  
16 projects to make them understandable for purposes of review and verification. There is  
17 simply not sufficient time in this proceeding for the OUCC to evaluate the reasonableness  
18 of the charges or determine what line items relate to each other and whether their  
19 inclusion in the charge is appropriate. Under the best of circumstances, the infrastructure  
20 improvement charge review process does not permit *every* cost to be adequately  
21 evaluated. However, Petitioner's organization of its case and its failure to identify  
22 discrete projects makes it impossible to begin *any* meaningful inquiry within the limited  
23 time afforded under the statute.

24 **Q: Other than its lack of support under 170 IAC 6-1.1-5(a)(1), were there other issues**  
25 **that made this case complicated or controversial?**

26 A: Yes. Petitioner's application included significant "Captime" entries, which is TLUI's  
27 term to describe its capitalization of internal labor costs. Petitioner's "Captime" entries  
28 did not include any detailed description of what the labor cost was for making it

1 impossible to form an opinion as to whether the labor cost should be considered eligible  
2 or was otherwise reasonable. Moreover, it could not readily be determined what was  
3 done and how the "Captime" fit into any project for the reasons given above. Petitioner  
4 did not provide evidentiary support for its "Captime."

5 **Q: What dollar amount of Petitioner's request was for "Captime"?**

6 A: For its distribution system improvement charge, Petitioner has requested \$62,896.54. For  
7 its collection system improvement charge, Petitioner has requested \$76,645.53.<sup>2</sup> In total,  
8 Petitioner's requested infrastructure improvement charge would be based on \$139,542.07  
9 of "Captime." Since Petitioner did not provide any evidentiary support for "Captime"  
10 that would allow the OUCC or the Commission to tie any of the listed "Captime" to any  
11 of the identified work performed, it was not possible to determine whether the inclusion  
12 of "Captime" was appropriate or whether the amount was reasonable. These amounts  
13 should be excluded in particular on that basis.

14 **Q: Was there any other aspect of Petitioner's filing that may need to be addressed?**

15 A: Yes. Petitioner's application for cost recovery of collection system improvements  
16 includes the cost of pumps and may include other assets that do not correlate to  
17 distribution system deemed eligible. For instance, pumps are not specifically listed in the  
18 relevant code sections as eligible plant. For purposes of its application, Petitioner's  
19 collection system infrastructure improvements total \$750,047.79 of which \$58,572.82<sup>3</sup>  
20 (net) is for pumping plant. Since the General Assembly modified the statute to include  
21 collection system, the Commission has not engaged in a rulemaking to establish what  
22 precisely should qualify as collection system under its rules. However, in its Final Order

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<sup>2</sup> Petitioner's Attachment BTH-1 Column J, line 6 and 24.

<sup>3</sup> Petitioner's Attachment BTH-1 Column M, Line 24 and 22 respectively.

1 in Indiana American, Cause No. 42351 DSIC-1, the Commission noted “Items that fall  
2 within the other functional categories (EG: Source of Supply/Pumping Plant, Water  
3 Treatment Plant, and General Plant) should not be considered distribution system for  
4 purposes of a DSIC.”<sup>4</sup> Since pumps are not considered to be distribution system for  
5 purposes of distribution system improvement charge, unless and until a determination is  
6 made to the contrary through a rulemaking, pumps should likewise not be considered  
7 collection system for these purposes. The OUCC proposes the Commission disallow the  
8 cost of pumps used in the collection system.

9 **Q: Were you able to identify any potentially eligible projects through discovery?**

10 A: Yes. In response to discovery from the OUCC, Petitioner identified a majority of the  
11 costs related to its wastewater collection as being associated with its “Sewer  
12 Improvement Program, (SIP)” which grew out of the Commission’s order in Cause No.  
13 43128-S1. Petitioner’s response to OUCC data request Q1-12. (Attachment GAF-1)  
14 Thus, through discovery I determined Petitioner might have made a case for a significant  
15 portion of the amount requested for Sewer Capital Improvement job# 2014137 in the  
16 amount of \$686,603.03

17 **Q: Were you able to verify all the costs of this “Sewer Improvement Program” and**  
18 **their reasonableness?**

19 A: No. Data analytics of the workpapers revealed that \$626,080.45, or approximately 91%,  
20 of a total project cost of \$686,603.03 was the result of two “project closing” journal  
21 entries dated 6-30-2015. (The summary of additions for this program is \$636,306.45  
22 (Sewer Gravity Main) and \$50,296.58 (Manholes).) (Note: petition proposes to include

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<sup>4</sup> Indiana American Water Company, Cause No. 42351 DSIC-1, IURC Final Order dtd Feb 27, 2003, pg 15.

1 projects placed in service between April 1, 2013 and May 31, 2015.<sup>5</sup>) These journal  
2 entries represent the journal entry made to close the Construction Work in Progress  
3 (“CWIP”) account and contain several additional transactions in the various categories  
4 including Cap-time, Engineering, IDC and Labor/installation. In response to discovery  
5 asking for support, Petitioner did provide invoices. But these invoices supported only  
6 \$625,519.32 of the total of \$686,603.03. The difference of \$61,083.71 represented an  
7 amount ascribed to “IDC” (\$5,417.96) and “Cost of Cap Time” (\$55,665.75) for which  
8 no support was provided.

<u>Amount</u>	<u>Description</u>
686,603.03	Total for 1350 & 1353
(5,417.96)	Less: IDC - no support
(55,665.75)	Less: Cost of Cap Time - no support
<u>625,519.32</u>	OUCS portion of verified expenditures

9 **Q: What are your conclusions with respect to the Sewer Improvement Project?**

10 A: Petitioner has not made a prima facie case for its infrastructure improvements charge for  
11 either its requested distribution system costs or its requested collection system costs.  
12 However, based on the responses to discover requests, I was also able to obtain some  
13 support for \$625,519.32 that the Sewer Improvement Program qualified as a collection  
14 plant project. (See Attachment GAF – 2) Although we continue to maintain Petitioner  
15 has not made a prima facie case under the Commission’s rules, we do recognize that a  
16 case can be made for at least some of the Sewer Improvement Program as identified in  
17 discovery. However, given that we did not receive this information with Petitioner’s  
18 case, we have not had a meaningful opportunity to verify the eligibility of all costs and

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<sup>5</sup> Twin Lakes Utilities, Inc, Direct Testimony, Brian Halloran, page 5, line 1

1           their reasonableness. Using the same pre-tax return and billing determinants, I have  
2           determined that if Petitioner were permitted to base an infrastructure surcharge on  
3           \$625,519.32 Petitioner's proposed DSIC Sewer Rate would be reduced from 2.83 to  
4           \$2.36. (See Attachment GAF – 3)

### **III. RECOMMENDATIONS**

5   **Q:    What is your recommendation?**

6   A:    I recommend the Commission find that Petitioner did not make a prima facie case for its  
7           requested infrastructure improvement charge for both water and sewer. In the alternative,  
8           the OUCC requests the Commission find that Petitioner's infrastructure improvement  
9           charge should be limited to depreciation expense and pretax return on no more than  
10          \$625,519.32 of Twin Lakes' Sewer Improvement Project.

11 **Q:    Does this conclude your testimony?**

12 A:    Yes.

CAUSE NO. 44646

**OUC Data Request Set No. 1**

**OUC DR 1-12: 170 IAC 6-1.1-5 Required supporting documentation, states the utility shall submit supporting documentation for its petition to the Commission (a) 1:**

- a. A description of the DSIC project,**
- b. An explanation of why the project is needed, the benefits resulting to the utility and its customers upon completion of the project,**
- c. And the age of the plant that was retired.**

**Response:**

- a. The project included in the DSIC has the capital project number of 2014137, which relates to all costs related to the “Sewer Improvement Program”. The “Sewer Improvement Program” is the result of an order provided in Cause No. 43128-S1 and this is year 5 of 10 pertaining to said order.
- b. During the investigation this year, a long length of 8 inch transite gravity sewer main, totaling 1910 linear feet, which runs downstream of a lift station outfall, was found to have heavy deterioration. Replacement of this section of main will enhance the service in this area of the sewer system. Installation of the new piping will eliminate the need for future costs of sewer rodding in this area. This project will also eliminate the opportunity for total failure in this section that could cause emergency action, as well as concerns of allowing waste to enter the environment and help Twin Lakes maintain compliance with Indiana Department of Environmental Management regulations and expectations of a public sewer provider.
- c. The age of the plant retired is approximately 50 years old.

Office of Utility Consumer Counselor  
Cause No.  
Summary of additions

Attachment GAF - 2

A		B		Per Petitioner		Per OUCC
Line	Account	Description	Job Number	Job Description	Total Costs	Total Costs
1	1125	TRANS & DISTR MAINS	Various	Small projects	\$ 91,161.70	
2	1130	SERVICE LINES	Various	Small projects	\$ 188,303.90	
3	1135	METERS	Various	Meters/Service Lines/Curb Stops	\$ 6,221.23	
4	1140	METER INSTALLATIONS	Various	Small projects	\$ 14,490.90	
5	1145	HYDRANTS	Various	Small projects	\$ 14,701.88	
6				<b>Total</b>	<b>\$ 314,879.61</b>	\$ -
7	1345	Sewer Force Main	Various	Small projects	\$ 3,454.12	\$ -
8	1350	Sewer Gravity Main	2014137	Sewer Capital Improvement / Small Projects *	\$ 636,306.45	\$ 625,519.32 combined
9	1353	Manholes	2014137	Sewer Capital Improvement / Small Projects *	\$ 50,296.58	
10	1365	Flow Measure Devices	Various	Small projects	\$ 1,417.82	\$ -
11	1380	Pumping Equipment Pump Pft	Various	Small projects	\$ 58,572.82	\$ -
12				<b>Total</b>	<b>\$ 750,047.79</b>	<b>\$ 625,519.32</b>

\* OUCC DR 1-18 (e) - Only defined project

Office of Utility Consumer Counselor  
Proposed DSIC Calculation and Rate Calculation  
Summary of additions

Attachment GAF - 3

	Per Petitioner	Per OUCC
<b>Water</b>		
Net Twin Lakes Supplied DSIC Additions	\$ 314,880	\$ -
Pre-Tax Rate of Return	11.51%	11.51%
Pre-Tax Return on Net DSIC Additions	\$ 36,243	\$ -
Depreciation on DSIC Additions (2% rate)	\$ 6,298	\$ -
	<hr/>	<hr/>
Total DSIC Revenues	\$ 42,541	\$ -
DSIC Rate per 1,000 Gallons (Total DSIC Revenues / Total Water of 190,6463.85 * 1,000)	\$ 0.22	\$ -
Annualized Service Revenues 2014	\$ 1,225,785	\$ 1,225,785
% Increase	3.47%	0.00%
Base Revenues Approved in Cause No. 44388	\$ 1,319,241	\$ 1,319,241
% Increase (limited to 10%)	3.22%	0.00%
<b>Sewer</b>		
Net Twin Lakes Supplied DSIC Additions - Per OUCC	\$ 750,048	\$ 625,519
Pre-Tax Rate of Return	11.51%	11.51%
Pre-Tax Return on Net DSIC Additions	\$ 86,331	\$ 71,997
Depreciation on DSIC Additions (2.5% rate)	\$ 18,751	\$ 15,638
	<hr/>	<hr/>
Total DSIC Revenues	\$ 105,082	\$ 87,635
DSIC Rate - Flat (Total DSIC Revenues / Total Number of Bills )	\$ 2.83	\$ 2.36
Annualized Service Revenues 2014	\$ 1,837,696	\$ 1,837,696
% Increase	5.72%	4.77%
Base Revenues Approved in Cause No. 44388	\$ 1,854,617	\$ 1,854,617
% Increase (limited to 10%)	5.67%	4.73%

CAUSE NO. 42743 DSIC-3

OUCS Data Request Set No. 2

OUCS DR 2-13: Please describe what assets the following Asset ID numbers found on Petitioner's Attachment BNH-1 represent:

			60200		
			63030		
			63031		
			63035		
			63042		
			63058		
			91779		
			93115		
			95988		
			97928		
			108570		
			108571		
			108572		
			5000435		

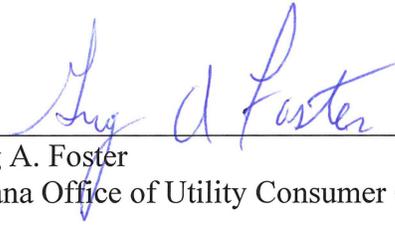
Response: Below is a listing of the assets and a brief description of the asset. Please note that the Company uses the group asset method of recording plant assets, which makes it possible to group together a number of assets for the calculation and posting of depreciation.

Please note that Asset ID 5000435 was inadvertently included in this Cause because PO 141717 was related to the AMR Project. The Company would agree to remove the \$3,117.32 of plant and the (\$1,300.93) of retirements from its DSIC calculation.

Asset ID	Acct #	Asset Description
60200	1125	Distribution Valves
63030	1135	Water Meter
63031	1135	Water Meter
63035	1135	Water Meter
63042	1135	Water Meter
63058	1135	Water Meter
91779	1125	WATER MAINS, NEW OR REPL
93115	1140	METER INSTALLATIONS-NEW/REPL
95988	1130	WATER SERVICE LINES
97928	1135	METERS
108570	1125	TRANS & DISTR MAINS
108571	1130	SERVICE LINES
108572	1135	METERS
5000435	1135	INSTALL AMR METERS AT INDIANA

**AFFIRMATION**

I affirm, under the penalties for perjury, that the foregoing representations are true.



\_\_\_\_\_  
Greg A. Foster  
Indiana Office of Utility Consumer Counselor

July 30, 2015

Date

Cause No. 44646  
Twin Lakes Utilities, Inc.

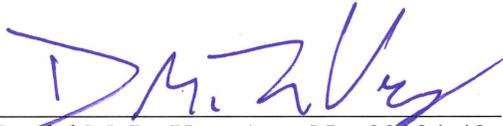
**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing *OUCC Testimony of Greg A. Foster: Public's Exhibit No. 1* has been served upon the following counsel of record in the captioned proceeding by electronic service on July 30, 2015.

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