

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

CONSUMERS ILLINOIS WATER COMPANY	)	
	)	
Petition for issuance of Certificate of	)	
Public Convenience and Necessity to	)	Docket 02-0480
operate a water supply and distribution	)	
system in Kankakee County; and for approval	)	
of a variance from main extension deposit	)	
provisions, rates and accounting entries.	)	

**DRAFT ORDER OF CONSUMERS ILLINOIS WATER COMPANY**

On July 19, 2002, Consumers Illinois Water Company (“CIWC” or the “Company”) filed a Verified Petition requesting, pursuant to Section 8-406 of the Illinois Public Utilities Act (the “Act”), 220 ILCS 5/8-406, that the Illinois Commerce Commission (“Commission”) enter an order issuing a Certificate of Public Convenience and Necessity (“Certificate”), which authorizes CIWC to construct, operate and maintain a water supply and distribution system, and in connection therewith, transact a public utility business in the area of Kankakee County, Illinois, which is described herein (the “Area”). In the Verified Petition, CIWC also requests approval of applicable rates for a portion the Area. CIWC further requests approval of accounting entries related to the acquisition by CIWC of water facilities in the Area. On August 22, 2002, CIWC filed an Amended Petition to reflect certain minor corrections to the Petition filed on July 19, 2002.

Pursuant to due notice, pre-hearing conferences were held in this matter before a duly authorized Administrative Law Judge on October 10 and October 30, 2002. A hearing was held on November 20, 2002. At the hearing, the Company and Staff of the Commission (“Staff”) were each represented by counsel. Mr. Thomas J. Bunosky, Vice President of CIWC, and Mr. John F. Guastella, President of Guastella & Associates, Inc. testified on behalf of the Company. Messrs. Bryan Sant and Roy A. King, both of the Financial Analysis Division of the Commission, presented statements on behalf of the Commission Staff. At the conclusion of the hearing on November 20, 2002, the mater was marked “Heard and Taken.”

**CIWC Evidence**

CIWC provides water and sewer public utility service to the public in certain areas of Kankakee, Vermilion, Will, Boone, Knox, Lake and Lee Counties in the State of Illinois. Messrs. Bunosky and Guastella stated that CIWC is a public utility within the meaning of the Act. 220 ILCS 5/3-105. Mr. Bunosky stated that CIWC has been requested to provide water service to members of the public within the area of Kankakee County, Illinois, which is shown on Appendix “A” to this Order, and legally described on Appendix “B.”

## Certificate of Public Convenience and Necessity

Mr. Bunosky stated that CIWC has been requested to provide water service in a portion of the Area (“Grant Park Area”) for customers in the Village of Grant Park, Illinois (“Village”). The Village includes approximately 550 customers who are presently served by a water treatment and distribution system owned by the Village (the “System”). According to Mr. Bunosky, the Village has requested that CIWC acquire the System and provide retail water service in the Village. As will be discussed, the System is not in compliance with certain environmental laws and regulations, and the Village believes that CIWC, due to its expertise in water operations and financial resources, would be better able than the Village to address the environmental violations and water quality concerns.

As Mr. Bunosky explained, the System has undersized water mains and inadequate well capacity. As a result, the System experiences water quality problems, including hard water; low water pressure; inadequate rates of water flow; and limited fire protection capabilities. At times, the System provides water that violates the established maximum contaminant levels (“MCLs”) for both iron and arsenic. For iron, the range of detections has been from 1300 parts per billion (p.p.b.) to 10,000 p.p.b. (1.3 mg/l to 10 mg/l)<sup>1</sup>, with an average of 7233 p.p.b. (7.233 mg/l). The detections are well above the applicable iron MCL of 1000 p.p.b. (1.000 mg/l). For arsenic, the range of detections has been from 30 to 31 p.p.b. (.03-.031 mg/l), with an average of 30.5 p.p.b. (.035 mg/l). Under a recently revised regulation, however, an MCL for arsenic of 10 p.p.b. (.01 mg/l) will take effect. Mr. Bunosky indicated that the Village must immediately address the violation of the MCL for iron. The Illinois Environmental Protection Agency (“IEPA”) has advised that the Village must comply with the arsenic of 10 p.p.b. (.01 mg/l) MCL by January 23, 2006.

Mr. Bunosky testified that CIWC will acquire the System for a purchase price of \$66,000, which includes payment for the portion of closing costs allocated to CIWC by the purchase agreement (“Agreement”). CIWC also has agreed to construct certain improvements to the System (“System Improvements”) that will address the above-described MCL violations and other water quality and low pressure/rate of flow problems. The System Improvements include: (i) construction of a water main (“Main”) of sufficient size and capacity to deliver a rate of flow of water to the System of 2,000 gallons per minute (“g.p.m.”); (ii) utilization of SCADA and telemetry; and (iii) introduction of chlorine and nitrite monitoring. The cost of the needed improvements is \$2,758,858.

According to Mr. Bunosky, the Area includes property within one mile along each side of the Main (with the exception of Manteno Township, in which the certificated area will be 100 feet on each side of the Main), so that CIWC may provide service along the route upon request. As a part of its review of the water system problems experienced by Grant Park, CIWC considered the cost of addressing the iron and arsenic MCL violations, hard water, and water quality/flow problems of the Grant Park system on a stand-alone basis, without construction of a main for delivery of a new water supply. Specifically, CIWC considered the installation of iron/arsenic removal, softening, and other equipment for the existing water supply facilities

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<sup>1</sup> Milligrams per liter.

("Existing Facilities"). CIWC determined that the cost of constructing the System Improvements, including the Main, is below the cost of correcting problems experienced by the System on a stand-alone basis.

Mr. Bunosky explained that , based on application of the rates of CIWC's Kankakee Division, customers in Grant Park will, within ten years and thereafter, provide a rate of return on the investment in the System that is reasonably comparable to the presently allowed rate of return. Mr. Bunosky further stated that the addition of the Area to the Kankakee Division will, over time, favorably affect rates by providing revenue to cover fixed costs that would otherwise be reflected in the rates of other customers.

As Mr. Bunosky indicated, the Area also includes land which is in the process of development, primarily north and west of the current service area boundary ("Growth/Housekeeping Area"). The boundaries of the Growth/Housekeeping Area were drawn so as to "square off" the western portion of the Kankakee Division service area with the area's existing north and west boundaries. CIWC has inadvertently extended a water main into the Growth/Housekeeping Area, and presently serves one customer from the main in the Growth/Housekeeping Area. According to Mr. Bunosky, other potential customers in the Growth/Housekeeping Area have requested service.

Mr. Bunosky stated that the public convenience and necessity require that CIWC operate and maintain a public water supply and distribution system and provide a public water supply for the Area. According to Mr. Bunosky, CIWC has the technical, financial and managerial ability to operate and maintain a public water supply and distribution system and to provide a public water supply for the Area.

Mr. Bunosky indicated that the provision of a public water service in the Area will impose no financial burden on either CIWC or its customers. Aside from extension of the Main, any extension of water mains that will be necessary to provide service in the Area will be in accordance with the Main Extension Deposit Rule reflected in tariffs issued by the Company (Ill. C.C. No. 47, Sheet Nos. 29-32, Rule 28), or through an alternative arrangement approved by the Commission. The Main will be installed within the Area. The route of the Main will follow primarily public roadway right-of-way. Private right-of-way, however, will be obtained to cross certain parcels of property. Mr. Bunosky testified that, in negotiating to obtain such parcels, CIWC will follow the provisions of 83 Illinois Administrative Code, Part 300.

Mr. Bunosky explained that construction of the System Improvements, including the Main, is necessary to provide adequate, reliable and efficient service to customers, and is the least-cost means of satisfying the service needs of customers. CIWC is capable of efficiently managing and supervising the construction process, and will take action to ensure that the construction and supervision thereof is adequate and efficient. Mr. Bunosky also indicated that CIWC is capable of financing the System Improvements without significant adverse financial consequences for CIWC or its customers.

According to Mr. Bunosky, no water public utility company, other than CIWC, will own a water supply and distribution system within, or within a reasonable proximity to, the Area, or is authorized to do so, or is able to render public water utility service to the Area. Also, no municipal water system is able to provide adequate and efficient service to the Area.

### **Waiver of Main Extension Deposit Requirement**

Mr. Bunosky stated that, under CIWC's presently effective Rules, Regulations and Conditions of Service, Ill. C.C. No. 47, Sheet Nos. 29-32, Rule 28, when a water main is extended, CIWC is required to seek a contribution from the applicant for service. In general, the contribution is equivalent to the cost of a main less one and one-half times the level of annual revenue projected to be received from customers who attach to the extension.

With respect to the Village, CIWC proposes to waive the contribution requirement of the Rules, Regulations and Conditions of Service for the following reasons:

- (a) as noted above, the revenues provided by customers in Grant Park are expected over time to provide a reasonable rate of return on the investment in the System, without the requirement of a contribution;
- (b) construction of the Main is the most cost-effective approach to address environmental violations and water quality concerns for the System; and
- (c) construction of the Main will provide CIWC with the opportunity to extend the Kankakee Division water system beyond Grant Park to certain high growth areas of Kankakee County and/or Will County. Also, if the Main is extended to such areas in Will County, a further extension may be feasible to connect the Kankakee Division water system to CIWC's water system at University Park, which presently experiences hard water conditions. If extension to University Park is completed, CIWC will be able to provide high quality, softened water to that system.

### **Adoption of Existing Rates**

CIWC Exhibit E shows charges to the average customer in Grant Park under present rates ("Present GP Rates") and under the revised rates which Grant Park would be required to place in effect to recover costs that it would incur to address the MCL Violations and water pressure/flow problems as a stand-alone system ("Stand-Alone GP Rates"). As shown on CIWC Exhibit F, for the average customer, application of the rates of the Kankakee Division which are expected to take effect in 2004 (as the result of a 2003 rate filing) results in decreased charges as compared to the Stand-Alone GP Rates. The Agreement indicates that rates of the Kankakee Division (as presently in effect or as amended) should be applied to customers in Grant Park.

As Mr. Bunosky indicated, in addition to an ultimate reduction in rates, as a result of interconnection to the Kankakee system, customers in Grant Park will avoid the need to install individual iron removal and water softening equipment in their homes. The estimated cost of

such equipment is \$200 annually. The Kankakee Division's rates are already in effect for the Housekeeping Area.

### **Accounting Entries**

An original cost study was performed for the facilities in the Grant Park Area by Guastella Associates, Inc. Mr. Bunosky explained that the study was necessary due to the lack of adequate accounting records at Grant Park. CIWC was informed by Grant Park that no accounting records were available.

Mr. Guastella discussed the original cost study marked as CIWC Exhibit 2.1. As Mr. Guastella explained, because Village Woods does not have records to identify the actual original cost and accumulated depreciation, the estimate is based on a determination of the current reproduction cost and a trending of that cost for the year of original installation, along with an adjustment for depreciation to reflect the current condition of the assets. This method required the development of an aged inventory of the assets, a pricing of that inventory using various current cost and construction data, a trend of the current cost back to the original year of installation, and an estimate of the current condition of the assets using the ages of the assets and their relationship to the appropriate average service lives. Based on the study, Mr. Guastella concluded that the depreciated original cost of the Grant Park facilities is \$1,318,984.

In accordance with Commission policy and the Uniform System of Accounts (83 Ill. Admin. Code, Part 605, Accounting Instruction 17), CIWC proposes to record the estimated net original cost of the System in the applicable plant accounts. The difference between the cost of the System, (net of depreciation, retirements, deferred tax and applicable contributions), and the purchase price would be recorded in Account 114 - Acquisition Adjustments. CIWC proposes to amortize the acquisition adjustment over twenty years as a credit to Account 406, and to include the credit acquisition adjustment in rate base. The related accounting entries are shown on Appendix "C" to this Order. Mr. Bunosky noted that this ratemaking treatment of the acquisition adjustment is proposed for purposes of this proceeding to mitigate the effect on rates of costs related to the System Improvements discussed above.

### **Staff Position**

Mr. Sant stated that Staff has reviewed the Company's petition, direct testimony, data request responses and underlying workpapers. Staff does not oppose the Company's proposal to record the initial purchase of the Grant Park Water System through the accounting entries illustrated in Appendix "C." Staff believes that the proposal is in accordance with Commission policy and the Uniform System of Accounts (83 Ill. Admin. Code, Part 605, Accounting Instruction 17).

According to Mr. Sant, the difference between the Net Original Cost (Original Cost less accumulated depreciation, retirements, deferred tax and contributions) and the cost CIWC paid for the system is known as the Acquisition Adjustment. The Acquisition Adjustment is recorded in Account 114. Mr. Sant indicates that, generally, it has been Commission practice to not allow Account 114, Acquisition Adjustment, into rate base. In this case, the acquisition adjustment is

negative, otherwise known as a credit acquisition adjustment, as the amount paid for the system is less than the estimated net original cost of the system. CIWC proposes that the ratemaking treatment in this proceeding differ from the normal practice, thus allowing the credit acquisition adjustment to be included as a reduction to rate base and the amortization of the acquisition adjustment to reduce operating expenses. The effect would be a decrease to rate base until the credit acquisition adjustment is fully amortized in 20 years.

Mr. Sant states that, generally, Staff does not recommend including an acquisition adjustment in rate base, whether it is positive or negative. To do so departs from the practice of reflecting only the original cost of assets in rate base. However, because this proposal is not detrimental to the ratepayers, Staff recommends that the Commission approve the proposed ratemaking treatment in this instance. The ratemaking treatment in question is reflected in Exhibit G attached to CIWC Exhibit 1.0, Direct Testimony of Thomas J. Bunosky. As reflected in Exhibit G, not only will the credit Utility Plant Acquisition Adjustment, Account 114, be reflected in rates via the rate base, but the amortization of the acquisition adjustment, Account 406, will be reflected in rates as a reduction to Operating & Maintenance expenses.

Staff emphasizes that its acquiescence to the Company's proposal to include an acquisition adjustment in rate base is not to be considered precedence or a change in Staff's position regarding the appropriateness of such ratemaking treatment. Such approval by Staff is only relevant to the specifics of this proceeding. Staff further recommends that the Final Order in this proceeding accentuate the fact that the approved ratemaking treatment is unusual and should not in any way be construed as an endorsement or precedence by the Commission or its Staff of the same treatment in other circumstances or proceedings.

Mr. King stated that he was assigned by the Manager of the Water Department to participate on behalf of the Department to examine CIWC's filing and assess the reasonableness of CIWC's request to serve Grant Park and the Growth/Housekeeping Areas. Based on that review, Mr. King stated that, in his opinion, the request for a certificate of Public Convenience and Necessity should be granted. Mr. King stated that it appears that CIWC is aware of the permits it will need before construction of the water facility can begin. Some permits will depend on the full engineering plans, such as for approval by IEPA. Mr. King indicated that CIWC may have already received the permits or be in the process of getting them. According to Mr. King, it appears based on the information provided that CIWC has complied with Section 8-406 (b) of the Act, which states in part:

“The Commission shall determine that proposed construction will promote the public convenience and necessity only if the utility demonstrates: (1) that the proposed construction is necessary to provide adequate, reliable, and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers; (2) that the utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof; and (3) that the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.”

During Mr. King's review of the testimony, exhibits and Company responses to Staff's data requests and based on his knowledge of the Company's operations, Mr. King found no reason why granting the Certificate to serve Grant Park and the Growth/Housekeeping Area would diminish the Company's ability to provide adequate, reliable, efficient, and safe service to its customers.

Mr. King pointed out that CIWC is a large utility and has established that it is capable of managing, financing and supervising this service. It has the ability to provide adequate, reliable, efficient, and least-cost services for the existing customers, as well as any future customers. Mr. King stated that, during his many visits to the water facilities, CIWC has consistently demonstrated that its water systems are well maintained and operated.

Mr. King, however, recommended that, if any overruns for construction should occur, that the costs should be addressed in the next rate case when the exact amount would be available. Further, he recommended that the Company adopt the present rates and Rules, Regulations and Conditions of Service of the Kankakee Division on file with the Commission for use in Grant Park and the Growth/Housekeeping Areas. The current rates and miscellaneous charges presently utilized by Grant Park should not be effective once CIWC provides water service. Also, Mr. King requested that CIWC submit certain data responses as part of the record. Overall, Mr. King stated that he supports the Petition.

### **Company Response**

CIWC indicated its agreement with the positions taken by Staff. In particular, CIWC agrees that the ratemaking treatment proposed for the credit acquisition adjustment is unusual, appropriate only for purposes of this proceeding and should not be treated as a precedent. CIWC also agrees that a construction cost overrun related to the System Improvements, if any occurs, can be reviewed at the time of CIWC's next Kankakee Division rate proceeding. CIWC also agreed that, upon acquisition, the rates and Rules, Regulations and Conditions of Service of the Kankakee Division (as now in effect or as subsequently revised) should be applied to the Grant Park and Growth/Housekeeping Areas.

### **Commission Conclusion**

The Commission concludes that, for the reasons given by CIWC and Staff, the relief requested in the Petition should be granted. CIWC has demonstrated that for the reasons discussed, the public convenience and necessity require that CIWC operate and maintain a public water supply and distribution system and provide a public water supply for the Area. CIWC has the technical, financial and managerial ability to operate and maintain a public water supply and distribution system and to provide a public water supply for the Area. The Commission further concludes that the provision of a public water service in the Area will impose no financial burden on either CIWC or its customers. No water public utility company, other than CIWC, will own a water supply and distribution system within, or within a reasonable proximity to, the Area, or is authorized to do so, or is able to render public water utility service to the Area. Also, no municipal water system is able to provide adequate and efficient service to the Area. The evidence also shows that construction of the System Improvements, including the Main, is

necessary to provide adequate, reliable and efficient service to customers, and is the least-cost means of satisfying the service needs of customers.

In addition, CIWC is capable of efficiently managing and supervising the construction process, and will take action to ensure that the construction and supervision thereof is adequate and efficient. CIWC's proposed journal entries and treatment of the acquisition adjustment are appropriate for purposes of this proceeding. As emphasized by Staff, CIWC's proposal to include the credit acquisition adjustment in rate base is unusual and should not be construed in any way as an endorsement of this approach by the Commission or Commission Staff, or as a precedent. The Commission further concludes that the waiver of the main extension deposit requirements requested by CIWC is reasonable and should be granted. As proposed by CIWC, the effective water tariffs for CIWC's Kankakee Division should apply to service rendered within the Area (as such tariffs may from time to time be revised with approval of the Commission). After acquisition by CIWC, use of the current rates and miscellaneous charges of Grant Park should be discontinued.

### **Findings and Ordering Paragraphs**

The Commission, having given due consideration to the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) Consumers Illinois Water Company provides water and sewer public utility services to the Public in certain areas of Kankakee, Vermilion, Will, Boone, Knox, Lake and Lee Counties in the State of Illinois, and is a public utility within the meaning of the Public Utilities Act;
- (2) the Commission has jurisdiction over CIWC and of the subject matter of this proceeding;
- (3) the conclusions and statements of fact set forth in the prefatory portion of this Order are supported by the evidence and the record and are hereby adopted as findings of fact;
- (4) the public convenience and necessity require that, effective upon the closing of the Agreement, CIWC operate and maintain a public water supply and distribution system and provide a public water supply for the Area;
- (5) CIWC has the technical, financial and managerial ability to operate and maintain a public water supply and distribution system and to provide a public water supply for the Area;
- (6) The provision of a public water service in the Area will impose no financial burden on either CIWC or its customers;
- (7) No public water utility company, other than CIWC, will own a water supply and distribution system within, or within a reasonable proximity to, the Area, or is authorized to do so, or is able to render public water utility service to the Area.

Also, no municipal water system is able to provide adequate and efficient service to the Area;

- (8) construction of the System Improvements, including the Main, is necessary to provide adequate, reliable and efficient service to customers, and is the least-cost means of satisfying the service needs of customers;
- (9) CIWC is capable of efficiently managing and supervising the construction process, and will take action to ensure that the construction and supervision thereof is adequate and efficient;
- (10) CIWC is capable of financing the System Improvements without significant adverse financial consequences for CIWC or its customers;
- (11) the waiver requested by CIWC of the main extension deposit requirements specified in CIWC's Rules, Regulations and Conditions of Service should be granted;
- (12) in the event of a construction cost overrun related to the System Improvements, if one were to occur, the amount of such overrun should be considered in the next rate case for the Kankakee Division;
- (13) except as specified herein, the effective Rates and Rules, Regulations and Conditions of Service, of the Kankakee Division (as such Rates and Rules, Regulations and Conditions of Service may from time to time be amended with the approval of the Commission) should apply to service rendered by CIWC within the Area;
- (14) at least five business days prior to closing of the Agreement, CIWC should file tariff sheets modifying the applicability clause of the effective tariffs for the Kankakee Division as needed to reflect the applicability of such tariffs to the Area;
- (15) for the reasons given by CIWC, the original cost of acquired facilities determined by Mr. Guastella and accounting journal entries in the form reflected on Appendix "C" to this Order should be approved;
- (16) for purposes of this proceeding, the proposed ratemaking treatment of the credit acquisition adjustment should be approved, provided, however, that such approval shall not be considered to be a precedent for any future proceeding.
- (17) within six months from the date of acquisition, CIWC shall file with the Manager of the Accounting Department of the Commission the proposed journal entries to clear the amount recorded in account 104, Utility Plant Purchased or Sold.

IT IS, THEREFORE, ORDERED that a Certificate of Public Convenience and Necessity should be issued to CIWC, authorizing it, effective upon closing of the Agreement, to construct, operate and maintain a public water supply and distribution system and provide a public water supply for the Area, such Certificate reading as follows:

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

IT IS HEREBY CERTIFIED that the Public Convenience and Necessity require the construction, operation and maintenance of a water supply and distribution system and in connection therewith the transaction of a public utility business by Consumers Illinois Water Company, an Illinois corporation, in the Area legally described on Appendix "B" hereto.

IT IS FURTHER ORDERED that CIWC is hereby authorized to construct the Main and System Improvements, and the waiver of the main extension deposit requirements of CIWC's effective tariffs requested and herein is hereby granted.

IT IS FURTHER ORDERED that, if a construction cost overrun related to the System Improvements were to occur, the amount of such overrun, if any, may be reviewed at the time of the next rate proceeding for the Kankakee Division.

IT IS FURTHER ORDERED that, except as provided herein, the effective Rates and Rules, Regulations and Conditions of Service of CIWC's Kankakee Division (as such Rates and Rules, Regulations and Conditions of Service may from time to time be amended in accordance with law) shall apply to the water service provided by CIWC within the Area.

IT IS FURTHER ORDERED that, at least five days prior to the closing of the Agreement, CIWC will file tariff sheets modifying the applicability clause of the Kankakee Division tariffs as needed to reflect applicability of such tariffs to the Area.

IT IS FURTHER ORDERED that, effective upon closing of the Agreement, application of the existing rates and miscellaneous charges of Grant Park will be discontinued.

IT IS FURTHER ORDERED that the original cost of acquired facilities proposed in this proceeding by CIWC and accounting journal entries shown on Appendix "C" hereto are hereby approved.

IT IS FURTHER ORDERED that the ratemaking treatment of the credit acquisition adjustment proposed by CIWC is approved; provided, however, that such approval is not a precedent for any future proceeding.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Act and 83 Illinois Administrative Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this \_\_\_ day of \_\_\_\_\_, 2002.