

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Consumers Illinois Water Company :
: **02-0480**
Petition for issuance of Certificate of :
Public Convenience and Necessity to :
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. :

ORDER

I. PROCEDURAL HISTORY

On July 19, 2002, Consumers Illinois Water Company (“Petitioner” or “CIWC”) filed with the Illinois Commerce Commission (“Commission”), pursuant to Section 8-406 of the Illinois Public Utilities Act (the “Act”), 220 ILCS 5/8-406, a verified petition requesting entry of an Order for a Certificate of Public Convenience and Necessity authorizing CIWC to construct, operate and maintain a water supply and distribution system, and in connection therewith, authorizing CIWC to transact a public utility business in the area of Kankakee County, Illinois, described herein. 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 notice as required by the law and the rules and regulations of the Commission, this matter came on for hearing before a duly authorized Administrative Law Judge on November 20, 2002. Petitioner was represented by counsel and presented the testimony of Thomas J. Bunosky, Vice President and General Manager, and John F. Guastella, President of Guastella & Associates, Inc., a consulting firm employed by Petitioner. Bryan Sant and Roy A. King of the Financial Analysis Division of the Commission presented statements on behalf of Commission Staff. At the conclusion of the hearing on November 20, 2002, this matter was marked “Heard and Taken.”

II. POSITIONS OF THE PARTIES

A. Petitioner's Position

1. Testimony of Mr. Bunosky

CIWC is a public utility within the meaning of Section 3-105 the Act (220 ILCS 5/3-105) and as such provides water and sewer public utility service to the public in certain areas of Kankakee, Vermilion, Will, Boone, Knox, Lake, and Lee Counties in Illinois.

Mr. Bunosky testified that the Village of Grant Park, Illinois ("Grant Park") has requested that CIWC acquire its water treatment and distribution system ("the System") and provide retail water service to approximately 550 customers residing there. The area in question is shown on Attachment "A" and described in Attachment "B" to this Order. Mr. Bunosky stated that the System is not in compliance with certain environmental laws and regulations, and that Grant Park believes that CIWC, due to its expertise in water operations and financial resources, would be better able to address the environmental violations and water quality concerns. He asserted 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. He added that 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 explained that the System has undersized water mains and inadequate well capacity. Consequently, it 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)¹, 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 Grant Park must immediately address the violation of the MCL for iron. The Illinois Environmental Protection Agency ("IEPA") has directed Grant Park to 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 \$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 that will address the above-described MCL violations and other water quality and low pressure/rate of flow problems. System improvements would include

¹ Milligrams per liter.

construction of a water main of sufficient size and capacity to deliver a rate of flow of water to the system of 2,000 gallons per minute, and introduction of chlorine and nitrite monitoring. The cost of the needed improvements, as shown on CIWC Exhibit C, is \$2,758,858.

Mr. Bunosky explained that construction of the System improvements, including the water 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 the construction process, and will ensure that construction 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. He added that 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 be authorized to do so, or be able to provide service to Grant Park. Moreover, no municipal water system will provide service to Grant Park.

Mr. Bunosky testified that the provision of public water service in Grant Park will impose no financial burden on either CIWC or its customers. Aside from construction of the main, any extension of water mains necessary to provide service in Grant Park will be done 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 Grant Park and route of the main will follow primarily public roadway right-of-way. Private right-of-way will be obtained to cross certain parcels of property, however, CIWC will follow the provisions of 83 Illinois Administrative Code, Part 300, in negotiations to obtain such parcels.

Mr. Bunosky described the area as including property within one mile along each side of the water main, so that CIWC may provide service along the route upon request. The certificated area in Manteno Township will be 100 feet on each side of the water main. As a part of its review of the water system problems experienced by Grant Park, CIWC considered the installation of iron/arsenic removal, softening, and other equipment for the existing water supply facilities ("existing facilities"). CIWC determined that the cost of constructing the System improvements, including the water 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. He noted that 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.

Mr. Bunosky testified that the area for which certification is requested also includes land in the process of development, primarily north and west of the current

service area boundary ("Growth/Housekeeping"). The boundaries of Growth/Housekeeping were drawn so as to "square off" the western portion of the Kankakee Division service area with Grant Park's existing north and west boundaries. He said that CIWC extended a water main into Growth/Housekeeping and serves a single customer there, however, other residents have requested service.

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. The contribution is equivalent to the cost of a water main, less one and one-half times the level of annual revenue projected to be received from customers who attach to the extension. He added that no variance for construction of the water main within Grant Park will be required, since any extension of water mains deemed necessary will be in accordance with the Main Extension Deposit Rule reflected in the above-cited tariff, or through an alternative arrangement to be submitted to the Commission for its approval.

Regarding Grant Park, CIWC proposes to waive the contribution requirement of the Rules, Regulations and Conditions of Service, because 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. Also, construction of the water main is the most cost-effective approach to address environmental violations and water quality concerns for the system. Furthermore, construction of the water 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. If the water 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 an extension to University Park is completed, CIWC will be able to provide high quality, softened water to that system.

Mr. Bunosky sponsored Petitioner's Exhibit E, which 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 it would incur to address the MCL Violations and water pressure/flow problems as a stand-alone system ("Stand-Alone GP Rates"). CIWC proposes to adopt for Grant Park the Kankakee Division rates already in effect for Growth/Housekeeping. He also sponsored Petitioner's Exhibit F, which shows that application of the Kankakee Division rates, expected to take effect in 2004 pursuant to a 2003 rate filing, results in decreased charges to the average customer, as compared to the Stand-Alone GP Rates. The Agreement indicates that Kankakee Division rates, presently in effect or as amended, should be applied to customers in Grant Park. Mr. Bunosky added that, in addition to an ultimate reduction of rates resulting from 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. CIWC requests that the rate filing requirements of 83 Ill. Adm. Code 285 be waived regarding adoption of the Kankakee rates, since the filing costs would be excessive in connection with acquisition of such a small water system, as in this docket.

Mr. Bunosky testified that, 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 and the purchase price would be recorded in Account 114 - Utility Plant Acquisition Adjustment. CIWC proposes to amortize the adjustment over 20 years as a credit to Account 406 – Amortization of Utility Plant Acquisition Adjustment, and to include the adjustment in rate base. The related accounting entries are shown on Petitioner's Exhibit G, attached to this Order. This treatment is designed to mitigate the effect of costs on rates related to the System improvements noted above. Because Gant Park's accounting records were inadequate to determine the System's net original cost, it was estimated based on an original cost study completed by Guastella Associates, Inc.

2. Testimony of Mr. Guastella

Mr. Guastella sponsored CIWC Exhibit 2.1, the original cost study of the Grant Park Water System, that describes the methodology used to determine the original cost and accumulated depreciation of the System. Based on that study, Mr. Guastella estimated that the depreciated original cost of the System as of October 1, 2002 was \$1,318,984. This 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.

B. Staff's Position

1. Statement of Mr. Sant

Mr. Sant stated that Staff reviewed the Company's Petition, direct testimony, data request responses, and underlying work papers, and it does not oppose CIWC's proposal to record the initial purchase of the Grant Park Water System through the accounting entries illustrated in Exhibit "G." 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 and is recorded in Account 114. He stated that it has been past Commission practice to not allow Account 114 into rate base, however, in this proceeding the acquisition adjustment is negative, and is therefore 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 stated that Staff generally does not recommend including either positive or negative acquisition adjustment in rate base, since that 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. The ratemaking treatment in question is reflected in Exhibit G attached to the Direct Testimony of Mr. Bunosky (CIWC Exhibit 1.0). Exhibit G shows that the credit to Account 114 will be reflected in rates via the rate base, and the amortization of the acquisition adjustment, Account 406, will be reflected in rates as a reduction to Operating and Maintenance expenses.

Mr. Sant emphasized that Staff's acquiescence to CIWC'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. Staff approval is relevant only to the specifics of this proceeding. He recommended that the Order in this proceeding stress that the approved ratemaking treatment is unique to this docket and should not be construed as precedent by the Commission or Staff in future dockets.

2. Statement of Mr. King

Mr. King stated that, based on his assessment of the reasonableness of CIWC's request to serve Grant Park and Growth/Housekeeping, it was his opinion that the request for a Certificate of Public Convenience and Necessity be granted. He noted that CIWC seemed to be aware of the permits it would need before construction of the water facility could begin, and that CIWC may have already received the permits, or be in the process of obtaining them. He also indicated that CIWC appeared to have 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."

Mr. King added that, based upon his review of the record and his knowledge of the Company's operations, he could discern no reason why granting a certificate to

CIWC to serve Grant Park and Growth/Housekeeping would diminish its ability to provide safe, adequate, reliable, and efficient service to its customers. He emphasized that CIWC is a large utility capable of managing, financing, and supervising services, and it has the ability to provide reliable and least-cost services to its existing and future customers.

Mr. King recommended that if any overruns for construction should occur, the costs should be addressed in the next rate case when the exact amount would be available. He further recommended that CIWC adopt the present rates and Rules, Regulations and Conditions of Service of the Kankakee Division on file with the Commission for use in the Grant Park and Growth/Housekeeping areas. The current rates and miscellaneous charges currently used by Grant Park should not be effective once CIWC provides water service. Mr. King concluded that he supports the Petition.

III. Commission Analysis and Conclusions

The record developed in this docket by CIWC and Staff illustrates the need for a water supply and distribution system for the Grant Park and Growth Housekeeping areas. CIWC has established that it is capable of efficiently operating and maintaining such a system. CIWC amply demonstrated that the provision of public water service by CIWC to the Grant Park and Growth Housekeeping areas will impose no financial burden on either CIWC or its customers, and no water public utility company, other than CIWC, will own a water supply and distribution system within, or within a reasonable proximity to, these areas. Moreover, no other water public utility is authorized, or is able, to render public water utility service to the Grant Park or Growth Housekeeping areas, and no municipal water system has the ability to provide adequate and efficient service to either area. On the foregoing basis, the Commission finds that CIWC should operate and maintain a public water supply and distribution system, and provide a public water supply for the Grant Park and Growth Housekeeping areas.

CIWC's evidence also demonstrates 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 customers' service needs. CIWC has shown that it is capable of efficiently managing and supervising the construction process, and will be able to ensure that such construction is done in a reliable and efficient manner. Its evidence further demonstrates that CIWC can finance the proposed construction without significant adverse consequences for it or its customers, and that the construction costs would be below the cost of correcting System problems on a stand-alone basis .

The Commission deems CIWC's proposed journal entries and treatment of the acquisition adjustment to be appropriate for purposes of this proceeding. We agree with Staff that CIWC's proposal to include the credit acquisition adjustment in rate base is a departure from normal practice. The record is clear, however, that this treatment of the adjustment will decrease rate base until the adjustment is fully amortized. This will serve to mitigate the effect of costs related to the System improvements on rates. We concur with Petitioner's assertion that this is not detrimental to ratepayers.

Notwithstanding the above, the Commission stresses that including the adjustment in rate base is not to be construed as precedent or that the Commission has adopted this treatment for future dockets.

The Commission further agrees with CIWC's proposal to waive the main extension contribution requirement of the Rules, Regulations and Conditions of Service. CIWC's reasons for proposing the waiver are persuasive, insofar as it highlights cost-effectiveness, improved water quality, and more extensive service in the provision of water. These all point to benefits for the recipients of service and the waiver should be granted for that reason.

As proposed by CIWC, the effective water tariffs for CMC's Kankakee Division should apply to service rendered within the Grant Park area, as such tariffs may from time to time be revised with Commission approval. After acquisition by CIWC, use of the current rates and miscellaneous charges of Grant Park should be discontinued. We agree with Staff that if any cost overruns pertaining to System improvements occur, they should be reviewed at the next rate proceeding for the Kankakee Division when the precise amount of the overrun would be known.

The Commission concludes that the relief requested by CIWC in its Petition is in the best interests of the ratepayers and that the Petition should be granted.

IV. 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 is engaged in the business of providing water service to the public in Illinois and, as such, 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 recitals 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 and conclusions of law;
- (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 Grant Park;
- (5) CIWC has the ability to operate and maintain a public water supply and distribution system and to provide a public water supply for Grant Park;
- (6) the provision of a public water service in Grant Park will not impose a 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, Grant Park, or is authorized to do so, or is able to render public water utility service to Grant Park. Also, no municipal water system is able to provide adequate and efficient service to Grant Park;
- (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 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 itself or its customers;
- (11) CIWC's requested waiver of the main extension deposit requirements specified in its Rules, Regulations and Conditions of Service should be granted;
- (12) the amount of any construction cost overrun related to the System improvements 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 Grant Park;
- (14) effective upon closing of the Agreement, application of the existing rates and miscellaneous charges of Grant Park should be discontinued;
- (15) 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;
- (16) the original cost of acquired facilities reflected on Exhibit "G" to this Order should be approved;
- (17) 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 a precedent for any future proceeding.

- (18) within six months from the date of acquisition, CIWC should file with the Director of the Accounting Department 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 within six months from the date of acquisition, CIWC shall file with the Director of the Accounting Department the proposed journal entries to clear the amount recorded in Account 104, Utility Plant Purchased or Sold.

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 20th day of February, 2003.

(SIGNED) KEVIN K. WRIGHT

Chairman