

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**IN THE MATTER OF THE PETITION OF THE
TOWN OF WINFIELD, LAKE COUNTY,
INDIANA, FOR APPROVAL OF A
REGULATORY ORDINANCE
ESTABLISHING A SERVICE TERRITORY
FOR THE TOWN'S MUNICIPAL SEWER
SYSTEM PURSUANT TO IND. CODE § 8-1.5-6
ET SEQ.**

CAUSE NO. 45992

**THE TOWN OF WINFIELD, LAKE COUNTY, INDIANA'S
REPLY IN SUPPORT OF ITS MOTION FOR EXTENSION OF TIME**

The Town of Winfield, Lake County, Indiana ("Winfield"), by counsel, submits the following Reply in support of its Motion for Extension of Time:

1. This Cause was initiated on December 13, 2023, upon the filing of Winfield's Verified Petition.
2. The City of Crown Point, Indiana ("Crown Point") served its 108-page First Set for Discovery Requests ("Data Requests") upon Winfield on March 20, 2025.
3. Almost immediately after receiving the Data Requests, counsel for Winfield sent the requests to Winfield and its witnesses and contacted counsel for Crown Point to see if a mutually agreeable extension to respond to the Data Requests could be agreed upon. After a series of phone calls and emails between counsel, Crown Point's counsel indicated in a March 26, 2025 email sent shortly before 5:00 p.m. which conditioned its acceptance of an extension upon an agreement to extend the procedural schedule, a request which Winfield did not think the Commission would likely accept.
4. On March 28, 2025 (two business days after learning that Crown Point would not agree to the requested extension), Winfield filed its Motion for an Extension of Time through which Winfield requested that its deadline to respond to the Data Requests be extended by 30 days, to and including April 30, 2025. Any suggestions by Crown Point that Winfield was dilatory in filing its Motion for Extension of Time with the Commission ignores the fact that the timing of such filing was due to was due to the efforts to informally resolve the extension-request issue (a prerequisite to filing the Motion with the Commission).
5. Crown Point filed its Response to Winfield's Motion for Extension of Time on April 1, 2025 ("Response").
6. The fact that Winfield's witnesses have not completed their discovery responses is not surprising because they have been focused on preparing Winfield's case-in-chief evidence, to

be filed by April 18, 2025. As such, Winfield has worked to comply with the ten-day discovery response timeframe set forth in the March 19, 2025 Docket Entry, but, for the reasons detailed in the Motion for Extension of Time in this Reply, needs through April 30, 2025, to respond to the Data Requests.

7. Despite the assertion in Crown Point's Response, the Data Requests seek much more than just the production of documents. The scope, breadth, complexity of the Data Requests is evident a review of Data Requests, which is attached to Winfield's Motion for Extension of Time as Attachment A. The issue is not just whether isolated discovery requests are onerous, but also, as noted previously, includes the timing and number of the requests.

8. Crown Point also asserts in its April 1 Response that 108 page data requests in this type of case are normal and should be expected. Not surprisingly, Crown Point did not cite to any authority to support its assertion as no such authority exists. In fact, Crown Point's assertion is simply wrong and should be rejected by the Commission.

9. Crown Point misapplied Winfield's Notice Following March 4, 2025 Attorneys' Conference ("Notice") in incorrectly characterizing the quantity of evidence which Winfield will file by April 18, 2025, as "minor." Response at 3, ¶ 9. Winfield proposed in the Notice that **"If the Commission agrees** with Winfield's proposal regarding the procedural schedule of this case moving forward, Winfield proposes to provide a brief update on how it would provide service to the proposed development of Intervenor, LBL Development LLC, which is located within Winfield's proposed sewer service territory" (emphasis added). Notice at 1, ¶ 9. Through its February 28, 2025 Motion to Establish Procedural Schedule ("Motion"), Winfield requested that "Winfield Files Updated Testimony," to be due "10 Days After Commission Issues Procedural Schedule." Motion at 4, ¶ 9 11. However, the Commission did not adopt Winfield's proposal and instead adopted Crown Point's proposal for the scope of this case, and directed Winfield to "prefile **any** updated testimony and exhibits on or before April 18, 2025." (emphasis added). As such, Winfield's upcoming case-in-chief submission will be significant, as the March 19, 2025 Docket Entry changed the procedural posture of this Cause.

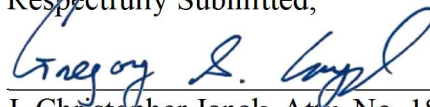
10. As noted above, Winfield filed its initial case-in-chief evidence on December 27, 2023. The Commission granted Crown Point's Petition to Intervene on November 25, 2024. Despite having access to Winfield's initial case-in-chief evidence, Crown Point did not serve its Data Requests upon Winfield until four months later, on March 20, 2025. Crown Point could have served its Data Requests in the intervening time, but did not do so. There is no Commission rule that prohibits a party from conducting discovery until after the issuance of a docket entry establishing a procedural schedule. Instead, 170 IAC 1-1.1-16 states parties are "entitled to the discovery provisions of Rules 26 through 37 of the Indiana Rules of Trial Procedure . . .," "[a] party may issue a written request for discovery to another party," and that a party may file a motion to compel if the discovery request is not satisfied within 10 days and the parties have not otherwise reached an agreement. As such, Crown Point could have provided its discovery requests at a much earlier date. Instead, Winfield is presented with a situation in which its discovery responses to 101 requests were due 19 days before its case-in-chief evidence is to be filed. Winfield should not suffer the consequences of Crown Point's delay.

12. As noted in Winfield's Motion for Extension of Time, any delay in responding to the Data Requests will not prejudice Crown Point as the Commission has established a procedural schedule whereby Crown Point can use any responses in its Responsive or Rebuttal Testimonies.

13. Winfield reiterates its statement its Motion for Extension of Time that given the June 2, 2025 deadline for Winfield and Crown Point to file evidence responsive to each other's case-in-chief filing, Winfield does not believe it is necessary to adjust the procedural schedule to accommodate its requested discovery extension. Winfield would understand if the Commission were to find it appropriate to adjust the procedural schedule upon granting Winfield's request.

THEREFORE, Winfield respectfully requests the Commission grant this motion, permit Winfield to respond to the Data Requests on or before April 30, 2025, and for all other just and proper relief.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I certify that on April 4, 2025, the foregoing was filed electronically with the Indiana Utility Regulatory Commission using the Commission's electronic filing system and was served electronically on the parties below:

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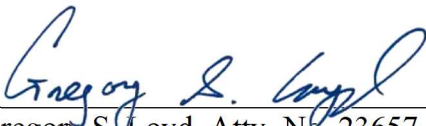
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