

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) CAUSE NO.: 45992
ESTABLISHING A SERVICE TERRITORY)
FOR THE TOWN'S MUNICIPAL SEWER)
SYSTEM PURSUANT TO IND. CODE § 8-)
1.5-6 ET SEQ.)

MOTION TO ESTABLISH PROCEDURAL SCHEDULE

The Town of Winfield, Lake County, Indiana (“Winfield”), respectfully requests that the Indiana Utility Regulatory Commission (“Commission”) adopt the proposed procedural schedule set forth below. In support of its Motion, Winfield states:

1. This case has been pending for over fourteen (14) months. On December 13, 2023, Winfield filed its petition (“Petition”) seeking approval of its regulatory ordinance establishing a service territory for Winfield’s municipal sewer system. Winfield filed its prefiled testimony and exhibits in support of its requested relief on December 27, 2023.

2. On April 26, 2024, and after the intervenor’s testimony deadline passed on April 2, 2024, (*See* Jan. 10, 2024 Docket Entry Establishing Procedural Schedule)¹, Winfield and the pending intervenors filed a Motion to Stay this case effective April 23, 2024, in an effort to reach a settlement on the disputed issues. The Motion was ultimately approved by the Commission on May 8, 2024, noting that “the proceedings in this Cause are stayed” effective as of April 23, 2024, and the evidentiary hearing set for May 23, 2024, was continued. (May 8, 2024, Docket Entry).

¹ 170 IAC 1-1.1-11(e) provides: “An intervenor is bound by rulings and other matters of record prior to the time the intervenor is made a party and *takes the case as the intervenor finds it* as of the date of intervention.”

The procedural schedule established on January 10, 2024, including the deadlines set forth therein, were otherwise unaffected at that time.

3. A stay temporarily halts the proceeding and maintains the status quo at the time the stay is entered. *See Scales v. Hospitality House of Bedford*, 593 N.E.2d 1283, 1285 (Ind. Ct. App. 1992) (“a ‘stay’ has been defined as ‘[a] stopping ... A stay is a suspension of the case or some designated proceedings within it. It is a kind of injunction with which a court freezes its proceedings at a particular point.’”) (quoting Black’s Law Dictionary 1267 (5th ed. 1979)). Accordingly, the status quo of this case at the time the Commission entered the stay on May 8, 2024, was that no party had been granted intervention, and the April 2, 2024 intervenor filing deadline had already passed.

4. After several extensions requested by the parties, the stay was ultimately lifted on October 15, 2024. (*See* Aug. 29, 2024 Docket Entry). On November 15, 2024, the Commission then granted the pending petitions to intervene that were originally filed in April 2024.

5. Following an attorneys’ conference held on January 21, 2025, the Commission issued a “Docket Entry Denying Consolidation” on February 11, 2025, where it denied the City of Crown Point’s (“Crown Point”) Motion to Consolidate this case with Crown Point’s regulated territory case in Cause No. 46035. Instead, the Commission found that the issue of the overlapping sewer territory between Crown Point and Winfield should be decided in this case. That Docket Entry also ordered the parties to confer and file an agreed procedural schedule by February 19, 2025.

6. The parties have since conferred on a procedural schedule, but the parties have reached an impasse. Winfield is not taking the position that the Intervenors cannot file responsive testimony to Winfield’s direct testimony. Instead, Winfield has proposed a procedural schedule

that mirrors the Town of Pendleton's and the City of Anderson's disputed regulated territory case in Cause Nos. 46087 and 46147. There, the Commission recently ruled on a nearly identical issue to this case in consolidating only the issue of overlapping service territory with the City of Anderson's regulated territory case in Cause No. 46147. (Nov. 21, 2024, Docket Entry, Cause No. 46147).

7. Following the Commission's decision to consolidate only the disputed territory issue into Pendleton's case in Cause No. 46087, the case proceeded with the existing procedural schedule where Pendleton, as the Petitioner in that case, had already filed direct testimony, and Anderson, as an intervenor, could file responsive testimony, and then Pendleton could file rebuttal testimony to Anderson's testimony. In other words, Anderson, as the intervenor in Pendleton's case, was not able to upend the existing procedural schedule in Pendleton's case (even though the issue of the disputed territory was to be decided in Pendleton's case, not Anderson's), but rather had to proceed along the existing procedural path because Pendleton filed its case before Anderson filed its own case, with the Commission noting (like here) that the two cases were in two different procedural positions.

8. Meanwhile, here, Crown Point has proposed a procedural schedule which would have this case start completely over and have *all parties* file direct testimony, *all parties* file responsive testimony, and *all parties* file rebuttal testimony. Essentially, Crown Point's proposal ignores the fact that the Commission denied its request to fully consolidate this case with Crown Point's own regulated territory case.

9. Crown Point's proposed procedural schedule also ignores the fact that Crown Point admitted at the January 21, 2025 attorneys' conference that its own regulatory ordinance was not finalized and it would require amendment before proceeding in its own case. This also ignores the

fact that Winfield initiated this Cause in December 2023, and the stay, which was approved on May 8, 2024 with the effective date of April 23, 2024, lifted on October 15, 2024.

10. At the time the stay was effective, this case had already been pending for 132 days. The stay was effective from April 23, 2024, through October 14, 2024, or 174 days. Since the stay was lifted on October 15, 2024, an additional 136 days have passed, putting the total number of un-stayed days at 268. Accordingly, Winfield should not have to restart this entire case over fourteen (14) months after filing its Petition.

11. Therefore, consistent with the procedural schedule that was applied in Cause No. 46087 under almost identical circumstances as this Cause (i.e., deciding the issue of disputed service territory in the Cause that was filed first), Winfield proposes the following procedural schedule:

Winfield Files Updated Testimony ²	10 Days After Commission Issues Procedural Schedule
Intervenors and OUCC File Responsive Testimony	45 Days After Updated Testimony
Rebuttal Testimony	30 Days After Intervenors/OUCC File
Evidentiary Hearing	30 Days After Filing of Rebuttal Testimony
Proposed Orders Due	30 Days After Evidentiary Hearing
Responses and Replies Due	30 Days After Proposed Orders
IURC Issues Order	90 Days After Proposed Orders

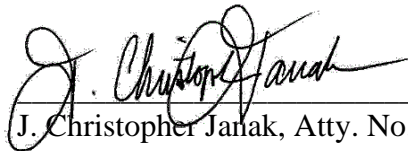
12. Winfield wanted the Commission to know the nature of the procedural dispute between the parties prior to and in anticipation of the attorneys' conference currently scheduled for March 4, 2025.

² Since fourteen (14) months have passed since Winfield originally prefiled its testimony in this Cause, Winfield needs to update its testimony in order to reflect any changes that have occurred during the passage of this time.

13. If prior to the March 4, 2025 attorneys' conference, the Commission decides that the relief requested in this motion is appropriate and should be granted, Winfield would ask that such attorneys' conference be vacated.

WHEREFORE, the Town of Winfield, Lake County, Indiana, respectfully requests that the Commission grant this Motion, approve the procedural schedule as set forth above, and award all other appropriate relief.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "J. Christopher Janak", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I certify that on February 28, 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:

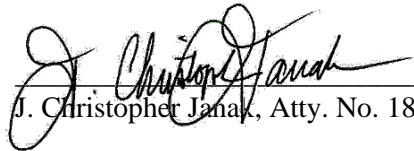
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