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City of Conway, Arkansas

Ordinance No. O-09-48

AN ORDINANCE FIXING RATES FOR SERVICES RENDERED BY THE SEWER SYSTEM OF THE CITY OF CONWAY, ARKANSAS; PRESCRIBING MATTERS RELATING THERETO AND DECLARING AN EMERGENCY.

WHEREAS, the City of Conway, Arkansas (the "City") owns a sewer system (the "System"), which System is operated by Conway Corporation, an Arkansas nonprofit corporation (the "Corporation"), pursuant to an exclusive franchise granted by the City; and

WHEREAS, the City and the Corporation have determined that substantial improvements are required to portions of the System, including, but not limited to, improvements to the Tucker Creek Basin Interceptor Sewer (Improvement A), Little Creek Basin Interceptor Sewer (Improvement B), I-40 to Central Pump Station Interceptor Sewer and new Industrial Pump Station (collectively, the "Improvements"), so that the inhabitants of the City may have adequate and proper sewer facilities, and that the financing of the Improvements will require rates for certain components of System services in excess of the rates presently in effect; and

WHEREAS, the City has previously established rates for System services pursuant to Ordinance No. O-92-15 adopted on April 28, 1992, as amended and supplemented by the provisions of Ordinance No. O-03-88 adopted on July 8, 2003 (collectively, the "Prior Rate Ordinance");

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

Section 1. That all customers of the System shall be classified by the Corporation as residential, commercial or industrial/institutional.

Section 2. That Section 1(b) of the Prior Rate Ordinance is hereby amended to read as follows with respect to sewer service billed on and after June 1, 2009, and the rates contained below are declared by the City and the Corporation to be fair, reasonable and necessary:

"(b) OM&R Charge. (i) *Residential Customers.* For the purpose of providing for the operation, maintenance and replacement of the System ("OM&R), for sewer service billed on and after June 1, 2009, all residential users of the System shall be charged monthly \$2.07 per 1,000 gallons or portion thereof of metered water consumption, with a \$4.14 minimum charge for 2,000 gallons or less. For the purpose of providing for OM&R for sewer service billed on and after January 1, 2011, all residential users of the System shall be charged monthly \$2.28 per 1,000 gallons or

portion thereof of metered water consumption, with a \$4.56 minimum charge for 2,000 gallons or less.

(ii) *Commercial Customers.* For the purpose of providing for OM&R, for sewer service billed on and after June 1, 2009, all commercial users of the System shall be charged monthly \$2.07 per 1,000 gallons for the first 25,000 gallons or portion thereof of metered water consumption, \$2.34 per 1,000 gallons for the next 75,000 gallons or portion thereof, and \$2.07 per 1,000 gallons for all use over 100,000 gallons, with a \$4.14 minimum charge for 2,000 gallons or less. For the purpose of providing for OM&R for sewer service billed on and after January 1, 2011, all commercial users of the System shall be charged monthly \$2.28 per 1,000 gallons for the first 25,000 gallons or portion thereof of metered water consumption, \$2.57 per 1,000 gallons for the next 75,000 gallons or portion thereof, and \$2.28 per 1,000 gallons for all use over 100,000 gallons, with a \$4.56 minimum charge for 2,000 gallons or less.

(iii) *Industrial and Institutional Customers.* For the purpose of providing for OM&R, for sewer service billed on and after June 1, 2009, all industrial and institutional users of the System shall be charged monthly \$2.07 per 1,000 gallons for the first 25,000 gallons or portion thereof of metered water consumption, \$2.34 per 1,000 gallons for the next 75,000 gallons or portion thereof, and \$2.07 per 1,000 gallons for all use over 100,000 gallons, with a \$4.14 minimum charge for 2,000 gallons or less. For the purpose of providing for OM&R for sewer service billed on and after January 1, 2011, all industrial and institutional users of the System shall be charged monthly \$2.28 per 1,000 gallons for the first 25,000 gallons or portion thereof of metered water consumption, \$2.57 per 1,000 gallons for the next 75,000 gallons or portion thereof, and \$2.28 per 1,000 gallons for all use over 100,000 gallons, with a \$4.56 minimum charge for 2,000 gallons or less.”

Section 3. That Section 1(f) of the Prior Rate Ordinance is hereby amended to read as follows with respect to sewer service billed on and after June 1, 2009, and the rates contained below are declared by the City and the Corporation to be fair, reasonable and necessary:

“(f) Debt Service Charge. (i) *Residential Customers.* For the purpose of providing for the repayment of principal and interest on debt to be incurred to finance and refinance improvements to the System (“Debt Service”), for sewer service billed on and after June 1, 2009, all residential users of the System shall be charged monthly \$0.90 per 1,000 gallons or portion thereof of metered water consumption and a fixed customer charge of \$2.70, with a minimum charge of \$4.50 for 2,000 gallons or less. For the purpose of providing for Debt Service for sewer service billed on and after January 1, 2011, all residential users of the System shall be charged monthly \$0.99 per 1,000 gallons or portion thereof of metered water consumption and a fixed customer charge of \$2.97, with a minimum charge of \$4.95 for 2,000 gallons or less.

(ii) *Commercial Customers.* For the purpose of providing for Debt Service, for sewer service billed on and after June 1, 2009, all commercial users of the System shall be charged monthly \$0.90 per 1,000 gallons or portion thereof of metered water consumption and a fixed customer charge of \$3.38, with a minimum charge of \$5.18 for

2,000 gallons or less. For the purpose of providing for Debt Service for sewer service billed on and after January 1, 2011, all commercial users of the System shall be charged monthly \$0.99 per 1,000 gallons or portion thereof of metered water consumption and a fixed customer charge of \$3.72, with a minimum charge of \$5.70 for 2,000 gallons or less.

(iii) *Industrial and Institutional Customers.* For the purpose of providing for Debt Service, for sewer service billed on and after June 1, 2009, all industrial and institutional users of the System shall be charged monthly \$0.90 per 1,000 gallons or portion thereof of metered water consumption and a fixed customer charge of \$12.15, with a minimum charge of \$13.95 for 2,000 gallons or less. For the purpose of providing for Debt Service for sewer service billed on and after January 1, 2011, all industrial and institutional users of the System shall be charged monthly \$0.99 per 1,000 gallons or portion thereof of metered water consumption and a fixed customer charge of \$13.37, with a minimum charge of \$15.35 for 2,000 gallons or less.”

Section 4. That Section 1(g) of the Prior Rate Ordinance is hereby repealed in its entirety with respect to sewer service billed on and after June 1, 2009.

Section 5. That Section 1(h) of the Prior Rate Ordinance is hereby amended to read as follows with respect to sewer service billed on and after June 1, 2009:

“(h) Total Minimum User Charge. (i) *Residential Customers.* For sewer service billed on and after June 1, 2009, the total minimum user charge for residential users of the System shall be \$8.64 calculated as follows: OM&R for 2,000 gallons (minimum) \$4.14 + Debt Service for 2,000 gallons (minimum) \$2.70 + \$1.80 ($\$0.90 \times 2$). For sewer service billed on and after January 1, 2011, the total minimum user charge for residential users of the System shall be \$9.51 calculated as follows: OM&R for 2,000 gallons (minimum) \$4.56 + Debt Service for 2,000 gallons (minimum) \$2.97 + \$1.98 ($\$0.99 \times 2$).

(ii) *Commercial Customers.* For sewer service billed on and after June 1, 2009, the total minimum user charge for commercial users of the System shall be \$9.32 calculated as follows: OM&R for 2,000 gallons (minimum) \$4.14 + Debt Service for 2,000 gallons (minimum) \$3.38 + \$1.80 ($\$0.90 \times 2$). For sewer service billed on and after January 1, 2011, the total minimum user charge for commercial users of the System shall be \$10.26 calculated as follows: OM&R for 2,000 gallons (minimum) \$4.56 + Debt Service for 2,000 gallons (minimum) \$3.72 + \$1.98 ($\$0.99 \times 2$).

(iii) *Industrial and Institutional Customers.* For sewer service billed on and after June 1, 2009, the total minimum user charge for industrial and institutional users of the System shall be \$18.09 calculated as follows: OM&R for 2,000 gallons (minimum) \$4.14 + Debt Service for 2,000 gallons (minimum) \$12.15 + \$1.80 ($\$0.90 \times 2$). For sewer service billed on and after January 1, 2011, the total minimum user charge for industrial and institutional users of the System shall be \$19.91 calculated as follows: OM&R for 2,000 gallons (minimum) \$4.56 + Debt Service for 2,000 gallons (minimum) \$13.37 + \$1.98 ($\$0.99 \times 2$).”

Section 6. The provisions of this Ordinance are separable and if a section, phrase or provision hereof shall be declared invalid, such declaration shall not affect the validity of the remainder of this Ordinance.

Section 7. The schedule of charges as described in sections 2 and 3 shall be increased on February 1, beginning 2013 and each subsequent year by the amount of increase in the Consumer Price Index (CPIU) or three (3) per cent (whichever is less) for the preceding year. A copy of the revised rates shall be posted on the Conway Corporation web site. Minimum payments in Section 5 will be adjusted on the web site each February 1 to reflect such new rates.

Section 8. All ordinances and resolutions and parts thereof in conflict herewith, particularly Sections 1(b), (f), (g) and (h) of the Ordinance No. O-92-15 and Sections 2, 3 and 5 of Ordinance No. O-03-88, are hereby repealed to the extent of such conflict.

Section 9. This Ordinance is necessary for the protection of the peace, health and safety of the citizens of Conway and it is in the best interests of the City and citizens due to the rate covenants which require the City to maintain a minimum debt coverage for its wastewater revenue bonds. Therefore, an emergency is declared and this Ordinance shall be in full force and effect on and after June 1, 2009.

PASSED: May 12th, 2009.

APPROVED:



Mayor Tab Townsell

ATTEST:



Michael O. Garrett
City Clerk/Treasurer

(SEAL)