

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<b>IN THE MATTER OF THE APPLICATION</b>	)	
<b>OF FALLS WATER COMPANY FOR AN</b>	)	<b>CASE NO. FLS-W-12-01</b>
<b>ORDER AUTHORIZING INCREASES IN</b>	)	
<b>THE COMPANY'S RATES AND CHARGES</b>	)	<b>ORDER NO. 32642</b>
<b>FOR WATER SERVICE</b>	)	

---

On January 30, 2012, Falls Water Company applied to the Commission for authority to increase its total revenue requirement by \$295,059.75, or 26.52%. Application at 1, 4. The Company said the accompanying rate increase would take effect on February 29, 2012, and would increase the average customer's bill by 26.8%. *Id.* at 2 and 5.

On February 22, 2012, the Commission suspended the proposed schedule of rates and charges for an initial period of thirty (30) days plus five (5) months from the proposed February 29, 2012 effective date, until August 28, 2012. Order No. 32467, *Idaho Code* § 61-622. On March 16, 2012, the Commission issued a Notice of Public Workshop, Notice of Modified Procedure, and Notice of Public Hearing setting comment and reply deadlines and a public workshop and customer hearing. *See* Order No. 32487 and corresponding Errata. The workshop and customer hearing occurred, Staff and members of the public filed written comments, and the Company filed a written reply. On August 24, 2012, the Commission extended the suspension period to September 18, 2012. *See* Order No. 32626.

With this Order the Commission suspends the Company's proposed schedule of rates and charges for an additional 28 days, until October 16, 2012. We also authorize Staff to file a short, issue-narrowing surrebuttal by September 28, 2012, that identifies whether Staff accepts any of the additional proposals raised in the Company's reply.

### LEGAL STANDARD

*Idaho Code* § 61-622 sets forth the Commission's authority to suspend the effective date of a proposed rate increase. The section states, in pertinent part:

No public utility shall raise any rate ... under any circumstances whatsoever except upon a showing before the commission and a finding by the commission that such increase is justified. The commission ... is hereby given authority... to enter upon a hearing concerning the propriety of such rate ... and pending the hearing and decision thereon, such rate ... shall not go into effect; provided, that the period of suspension of such rate ... shall not extend beyond thirty (30) days when such rate ... would otherwise go into

effect, pursuant to section 61-307, Idaho Code, unless the commission in its discretion extends the period of suspension for an initial period not exceeding five (5) months, **nor unless the commission after a showing of good cause on the record grants an additional sixty (60) days....**

*Idaho Code* § 61-622 (emphasis added).

The Idaho Supreme Court addressed the Commission's additional suspension authority under this section in *Washington Water Power Co. v. Idaho Pub. Util. Comm'n*, 101 Idaho 567 617 P.2d 1242 (1980). The Court held that "a showing of good cause on the record" means the record in the case must disclose that the additional days are necessary, as opposed to allowing the Commission to act with absolute discretion. *Id.* 101 Idaho at 571, 617 P.2d at 1246. The Court rejected the utility's contention that the statute required proper notice, opportunity to be heard, and a showing of good cause before the additional 60-day suspension could be granted, and stated that this requirement "could likely result in many of the additional sixty days being utilized solely in determining whether to grant the additional days." *Id.* Finally, the Court held that the Commission acted properly in determining from the record that good cause existed to suspend the rates for the additional 60 days because of the size of the increase requested, the complexity of the cases presented by the Company, and the current workload of the Commission. *Id.* 101 Idaho at 572, 617 P.2d at 1247.

### **DISCUSSION AND FINDINGS**

The Commission has reviewed the record in this case, which includes the hearing transcript, exhibits, pleadings, Staff and public written comments and the Company's written reply. We also have reviewed our current workload, and the applicable laws of this state and rules of the Commission. Based on this review, we find that good cause exists to order an additional period of suspension during which the Commission may issue its final Order in this matter.

As noted in Order No. 32626, this case involves a small water utility requesting a large general rate increase, which necessarily involves numerous complex and technical issues in reaching a final decision and Order. In addition to the size of the requested rate increase, the complexity of this particular case is compounded by the fact that there is a large disparity between the Company's case and the recommendations of Commission Staff. For example, while the Company initially requested an overall revenue increase of \$295,059.75, or 26.52%, which the Company calculated using a \$2,545,288 rate base, Staff recommended a revenue increase

of \$15,832, or 1.4%, which Staff calculated using a \$1,821,140 rate base. We further note that the Company has expressed that Staff's proposed reduction to rate base "would have catastrophic effects" on the Company. Company Reply at 3.

In light of the above, the Commission finds it needs additional time to thoroughly review the record and analyze the comments and the parties' respective positions. Accordingly, we find that there is good cause to continue the suspension period for another 28 days, until October 16, 2012. *Idaho Code* § 61-622.

In addition, while the Company's reply agrees with Staff on certain points, it raises numerous rebuttal arguments on other issues. To assist us in our deliberation, Staff may file a short surrebuttal by September 28, 2012, explaining what parts of the Company's reply Staff agrees with, if any. Staff's pleading should not argue why Staff may disagree with any of the positions stated in the Company's reply. Rather, the pleading should merely advise us on whether Staff *accepts* any of the Company's positions given the reply, thereby potentially narrowing the technical issues in dispute.

### **ORDER**

IT IS HEREBY ORDERED that the Company's Application shall be suspended for an additional 28 days, until October 16, 2012, unless the final Order is issued sooner.

IT IS FURTHER ORDERED that Staff may file a surrebuttal no later than September 28, 2012, identifying what parts of the Company's reply Staff agrees with, if any, consistent with the above discussion.


DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 13<sup>th</sup>  
day of September 2012.

  
\_\_\_\_\_  
PAUL KJELLANDER, PRESIDENT

  
\_\_\_\_\_  
MACK A. REDFORD, COMMISSIONER

  
\_\_\_\_\_  
MARSHA H. SMITH, COMMISSIONER

ATTEST:

  
\_\_\_\_\_  
Jean D. Jewell  
Commission Secretary

O:FLS-W-12-01\_kk4