(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF FALLS WATER COMPANY, INC.  TO SURRENDER ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 236. | )  )  )  )  )  )  ) | CASE NO. FLS-W-95-1  ORDER NO.  26443 |

On February 6, 1995, Falls Water Company, Inc.  (Falls Water; Company) notified the Idaho Public Utilities Commission (Commission) that it had changed its corporate status from “for profit” to “not for profit.”  Falls Water sought to surrender its Certificate of Public Convenience and Necessity No. 236.  Falls Water believed that changing corporate status to nonprofit would permit it to operate free of Commission jurisdiction, control and regulation.

On March 3, 1995, the Commission in Order No. 25905 stated that further investigation was required to determine whether or not Falls Water was operating as a public utility within the state of Idaho.  To that end, Staff was directed to conduct an investigation and audit of Falls Water Company.

Staff’s investigation revealed that Falls Water was continuing to operate as a public utility.  Pursuant to discussions with the Company  a letter was sent to Falls Water on October 13, 1995, expressing Staff’s position as to what changes would be required of Falls Water to avoid regulation.  As stated, it was Staff’s position that “a nonprofit corporation to avoid regulation must be structured in such a manner that the customers, not the developer, have ultimate control of the Company, its operations and management, and the pricing of its water and related services.”  The Company was directed to inform Staff as to whether Falls Water was structured in such a manner as to satisfy Staff’s concerns.  If not, Staff requested the Company’s preferred procedure for processing its Application.  The Company failed to respond.

On February 26, 1996, Staff sent a follow-up letter to Falls Water inquiring as to the appropriateness of a dismissal.  On March 20, 1996, Falls Water by E-mail communication indicated to Commission Staff that it had no objection to a dismissal of the case and stated its intent to send a formal request for dismissal.  A formal request was never filed.

COMMISSION FINDINGS

The Commission has reviewed and considered the filings of record and correspondence in Case No. FLS-W-95-1.  The Commission finds it reasonable to dismiss the Application of Falls Water in Case No. FLS-W-95-1 for failure of the Company to diligently prosecute its case.  We find that Falls Water continues to be a public utility and water corporation operating and providing water and related services pursuant to Certificate of Public Convenience and Necessity No. 236.  We continue to find that Falls Water Company, Inc. is subject to Commission jurisdiction and regulation.

CONCLUSIONS OF LAW

The Commission has jurisdiction over this matter and Falls Water Company, Inc., a water  utility, pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Commission’s Rules of Procedure, IDAPA 31.01.01.000 et seq.

O R D E R

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED that the Application of Falls Water Company, Inc.  In Case No. FLS-W-95-1 be dismissed and the case docket closed.

THIS IS A FINAL ORDER.  Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order.  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of May 1996.

                                                                                                                                      RALPH NELSON, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:FLS-W-95-1.sw

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

May 15, 1996