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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF DIAMOND BAR ESTATES LLC DBA DIAMOND BAR ESTATES WATER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND FOR APPROVAL OF RELATED RATES AND CHARGES.

CASE NO. GNR-W-02-3

COMMENTS OF THE COMMISSION STAFF

COMES NOW the Staff (Staff) of the Idaho Public Utilities Commission, by and through its Attorney of record, Scott Woodbury, Deputy Attorney General, and in response to the Notice of Application, Notice of Public Workshop, Notice of Modified Procedure and Notice of Comment/Protest Deadline issued on January 10, 2003, submits the following comments.

On November 29, 2002, Diamond Bar Estates LLC dba Diamond Bar Estates Water Company (Diamond Bar, Company, Applicant) filed an Application with the Idaho Public Utilities Commission for a Certificate of Public Convenience and Necessity to serve the Diamond Bar Estates Subdivision in Kootenai County, Idaho. Reference Application Attachments, legal description and maps of subdivision and service area; *Idaho Code* § 61-526; Commission Rules of Procedure, IDAPA 31.01.01.111. Diamond Bar Estates is more particularly described as a portion of the North ½ of Section 3, Township 51 North, Range 4 West Boise-Meridian, Kootenai County, Idaho.

GENERAL COMMENTS OF STAFF

The Diamond Bar Estates Subdivision began with the formation of Diamond Bar Estates, LLC (LLC) in 1994. Mr. Robert N. Turnipseed, as managing member, formed the LLC for the purpose of subdividing property into a subdivision of five-acre lots. Coincident with the creation of the LLC, Mr. Robert N. Turnipseed and Dana L. Rayborn Wetzel incorporated a nonprofit homeowners association known as the Diamond Bar Estates Homeowner's Association, Inc. (Association). Mr. Robert N. Turnipseed was the initial registered agent for the Association. The initial directors of the Association were Robert N. Turnipseed and his wife Clara B. Turnipseed.

Part of the improvements made to the property to create the subdivision was the construction of a water reservoir and distribution system utilizing an existing irrigation well within the subdivided property. As a developer-installed system, all of the initial capital improvements made to build the water system infrastructure are considered by this Commission to be contributed to the water system by the developer who has recovered the initial cost through the sale of lots. Idaho Public Utilities Commission Rule for Small Water Companies, IDAPA 31.36.01.103, states this position clearly and applies to all new subdivision development. Since the inception of the subdivision activities, Mr. Turnipseed has operated and maintained the water system. Billings and correspondence to customers bear the name "Diamond Bar Estates" or "Diamond Bar Estates Water". Tax returns for the water system have been filed under the name of the homeowners association. Some customers have indicated that until June of the year 2002, they did not know that a homeowners association owned and operated the water system. However, the Declaration of Covenants, Conditions and Restrictions for the subdivision is quite clear that a homeowners association would have control of the water system.

The first full meeting of the homeowners association since its inception was held on June 3, 2002. At that meeting new directors of the Association were elected. The members of the Association also passed Resolution No. 2002-4 at that meeting authorizing the Association officers to execute a bill of sale transferring the water system to Diamond Bar Estates, LLC. The Bill of Sale was executed on the same date. Attachment "A" (two pages) to these comments is a copy of the resolution. Attachment "B" (two pages) is a copy of the Bill of Sale. The transfer was accomplished at no cost to the LLC. Members of the Association have since indicated to Staff that they were ill prepared to vote on control of the water system. They have indicated that they had no opportunity to review the operation of the system or analyze the pros and cons of retaining the system or transferring it to the LLC. At least one customer has indicated a desire to revisit that decision and possibly reverse the transaction through litigation if necessary. In August 2002, shortly after the transfer of the system to the LLC, the well pump failed and had to be replaced at a cost of $14,482.50.

The subdivision contains forty-five residential lots of approximately five acres each and is nearly full. The rate design proposed by the LLC in its Application assumes the subdivision is built out. During the course of Staff's investigation, it was determined that several of the lots were not improved and in all likelihood several of these would not be improved in the near future. Staff therefore has made some adjustments to historical data to annualize and normalize the Company's operations assuming 41 lots are improved and are active full time customers.

Staff conducted a workshop on February 11, 2003, that was attended by representatives of the Applicant and a number of customers. Following that workshop several comments have been submitted by customers indicating they would have preferred to have had the opportunity to review Staff's comments prior to the workshop in order to be better prepared to discuss the issues. They have also suggested that a second workshop or a hearing be conducted after Staff files these comments and that the Commission not rush into a decision until the customers have an opportunity for additional comment.

FINANCIAL ANALYSIS

Staff has completed a detailed audit of the accounting records maintained for the water system for the test year 2001 and eight months of 2002. Based upon that analysis, Staff has determined that an annual revenue requirement of $16,104 is reasonable compared to the request of $23,123 contained in the Company's Application. Staff's proposed revenue requirement is based upon actual historical data of the system when under the umbrella of the homeowners association adjusted to normalize and annualize operating costs assuming there are 41 customers on the system. Staff notes that from the time the subdivision was first created in 1994, Mr. Turnipseed as the developer has subsidized the operation of the water system. This is not unusual. New water systems built in conjunction with the subdivision of property cannot be financially viable until adequate customer growth occurs to support the costs of the water system at reasonable rates.

Attachment "C" to these comments is a one-page schedule that shows Staff's development of the revenue requirement. Column (B) is the data contained in the Company's

Application. Column (C) is composed of adjustments Staff made to the Company's data to produce Staff's recommendations shown in Column (D). Many of Staff's adjustments are quite small and produce a final result that is not significantly different from the data submitted by the Company. Staff believes this detail is necessary to demonstrate to customers that the Commission Staff has indeed scrutinized the financial condition of this company to insure that customer rates are not based upon unreasonable expense levels or investments. Column (E) of Attachment "C" is a reference to specific adjustments that are detailed on Staff's Attachment "D" to these comments.

Attachment "D" (four pages) to these comments is a schedule that shows the details of a number of adjustments to the data submitted by the Company in its Application. The following is a description of each of those adjustments:

(A) The Company in its Application included $414.00 for postage expense. This amount appears high for a system of this size. The water system is one of several business activities operated by the owner from the same business office. Staff could not verify that this expense item was solely for the Diamond Bar water system activities. Adjustment (A) shows a budgeting approach calculation to test the reasonableness of the expense item. Staff's calculation produces an expense level of $226.20, that is $188.80 less than contained in the Application.

(B) The Company's Application included $350.00 for meter reading labor expense. The Company pays $1.00 per customer for this activity. Staff annualized this cost for 41 customers with eight meter readings per year to produce an expense of $328.00 per year or $22.00 less than included in the Application. Note that meters are not read during the four winter months.

(C) Water testing requirements are not constant from year to year. The Idaho Department of Environmental Quality (DEQ) requires some tests on a monthly basis, some tests on an annual basis and others vary on 3, 4 and 9 year cycles. Staff recommends normalizing the cost of these testing requirements over the cycle period for which each is required. Some of these tests are quite expensive. One of these tests required on a three-year cycle costs approximately $1,100.00. Staff has determined that the normalized cost of all tests (spread over the frequency periods) produces an annual average cost of $750 per year. The Company's Application reported actual cost during the 2001 test year period of $500.00. Staff has adjusted the expense item by increasing the cost by $250.

(D) The Company's Application contained a regulatory expense of $120.00. This is the regulatory fee assessed by the DEQ during the test year 2001. The DEQ fee is $5.00 per customer. Annualizing this fee for 41 customers at a rate of $5.00 per connection produces a DEQ fee of $205.00. When the Idaho Public Utilities Commission (PUC) regulates the Company, it is subject to a regulatory assessment by the PUC. The minimum assessment by the PUC is $50.00. Staff has added this additional regulatory fee to the annualized DEQ fee to produce a total regulatory fee expense of $255.00, or $135.00 more than included by the Company in its Application.

(E) Automobile expenses included in the Company's Application were $300.00. Actual expenses recorded during the test year were $212.14. Both of these amounts appear to be quite arbitrary. Adjustment (E) is a budget approach Staff performed to test the reasonableness of the requested expense level using the mileage allowances approved for income tax purposes. Staff's approach produces an annual allowance of $312.65 that appears to be reasonable.

(F) Electric expenses proposed in the Company's Application were $4,500.00. This amount includes both the cost of electricity and natural gas. Actual expenses recorded in 2001 were $3,046.70 and for 2002 were $4,870.95. Electric bills in both these years include charges for street lighting that is now being paid by the Diamond Bar Estates Homeowner's Association. Staff performed an analysis to determine a reasonable level of electric expense for the water system by comparing actual electric bills with water pumped for the period August 2001 through July 2002. This analysis produced a cost per thousand gallons of $0.24. Applying this cost per thousand gallons to the annualized total consumption for 41 customers produces an annual pumping power cost of $3,501.70. Added to this cost is the actual cost to heat the pump house building with natural gas of $656.27. Staff's analysis produces a total annualized expense of $4,157.97 as a reasonable estimate for these expenses. Staff adjusted the Company's request down by $342.03.

(G) During the test year 2001, the Company recorded the purchase of an irrigation meter as a meter repair and maintenance expense. Staff has removed the $516.29 cost of this meter from the recorded repair and maintenance expense of $1,493.74 that was rounded up to $1,500.00 in the Company's Application. All other irrigation meters were recorded as meter installation expense and treated as capital improvements in the Company's Application. Staff discusses the capitalization of these meters later in these comments under (L).

(H) During the test year 2001, check number 3146 payable to Avondale Construction (one of Mr. Turnipseed's other businesses) in the amount of $1,158.75 was written from the water system account. This payment should have been made not from the water system account but rather from the LLC account as a developer cost. On December 31, 2001, the LLC wrote check number 2097 to reimburse the water system for the payment. The reimbursement was not recorded by the water system until January 2002. Staff has removed this amount from the expenses recorded in 2001.

(I) During the test year the water system paid $560.00 for technical computer programming assistance. This was a one-time set-up cost that is not an ongoing cost to be repeated every year. Staff eliminated this cost from the Company's test year expenses.

(J) Mr. Turnipseed acquired a gas/diesel electric power generator at a cost of $5,500. The stated purpose for the acquisition was to provide back-up emergency pumping power in the event of a power failure. Staff observed this generator on the morning of February 11, 2003. The unit was stored in a building belonging to the Turnipseed family outside the subdivision and it was not in an operable condition. That evening Staff conducted a public workshop regarding this case and learned from Mr. Turnipseed that the unit was to be mounted on a trailer and be mobile. The generation unit is too small to operate the main well pump but would be used to provide power to the small back-up well located outside the subdivision on a farm owned by the Turnipseed family. Customers expressed concern that they should not be expected to pay depreciation expense and a return on a generator that was not permanent and dedicated to the water system. As a mobile unit, it could be easily transported to other locations and used for many other purposes. Staff notes that the unit is not currently available for use and as such the Commission could consider the unit as plant held for future use not included in rate base or subject to depreciation expense. Mr. Turnipseed has assured Staff that the unit will be put into serviceable condition this spring. Staff agrees with customers that indeed the mobile nature of the unit does make the unit subject to use not associated with the Diamond Bar water system. However, Staff does commend Mr. Turnipseed for his initiative to provide a source of back-up pumping power. Staff believes that a 50/50 sharing of responsibility for support of the unit appears reasonable and has removed ½ of the investment ($2,750.00) from rate base, ½ of the depreciation expense ($98.00 see Adjustment (N)) and ½ of the accumulated depreciation ($98.00, see Adjustment (O)).

(K) In August 2002, the Company had to replace the pump in the main well at a cost of $14,482. Staff has confirmed the cost of replacing this pump. However, at the workshop conducted on February 11, 2003, Staff learned from Mr. Turnipseed that an insurance policy paid the majority of the cost. The cost to the Company was the deductible portion of the insurance policy in the amount of $2,500. Staff removed the $11,982 insurance reimbursement from the Company's investment of $14,482.00 contained in the Application. Staff also eliminated depreciation expense of $599.10 associated with the insurance reimbursement (see Adjustment (N)).

(L) The Company's Application includes $2,951.00 of investment (rate base) in irrigation meters that were purchased during the test year. The Company has requested that it be allowed to earn a return of 14% on this investment. These meters have been provided to customers at no cost. Prior to the 2001 test year, all irrigation meters purchased have been treated as an expense. The Company has requested that in the future, customers requesting the installation of irrigation meters be required to pay a one-time initial connection fee of $500.00 to pay for the meters. Staff believes it may be appropriate to collect such a fee that would be treated as a customer contribution and would offset the cost of the meter investment for rate base purposes. All irrigation meters installed prior to 2001 while under the control of the homeowners association have been expensed and have no rate base valuation. All future irrigation meters would be contributed by the customer through the connection fee and would have no rate base valuation. Only the irrigation meters installed in 2001 and 2002 while still under the control of the homeowners association would be capitalized into rate base. Staff notes that the sale of the system from the homeowners association to the LLC was consummated at no cost to the LLC. Staff therefore reduces the Company's rate base by $2,951.00. Staff discusses the customer connection fees in more detail later in these comments.

(M) The Company included an estimate of $4,000 of rate case expense in its rate base calculation. Staff reviewed numerous prior orders of the Commission and cannot find a single instance where the Commission has included these costs as a rate base increment. Staff has eliminated this item from the rate base calculation. The Commission routinely allows amortization of such costs as an expense item over a period of years. The Company has requested and Staff concurs that a period of five years is a reasonable time frame for amortization of these costs. The requested amortization expense is $800. Staff has seen no documentation in support of the expense level and requests that the Commission require such documentation prior to approval of the expense item. Staff has made no adjustment of the expense amount at this time.

(N) In conjunction with the adjustments above, Staff also eliminated: 1. The Company's proposed depreciation expense of $74.00 on the irrigation meters Staff removed from rate base, Adjustment (L); 2. Depreciation expense of $599.10 associated with the insurance reimbursement for the new pump, Adjustment (K); 3. Depreciation expense of $98.00 associated with Adjustment (J) to the generator investment.

(O) Staff adjusted accumulated depreciation in the amount of $98.00 to be consistent with Adjustment (J) to the generator investment.

(P) The Company included $50.00 in its Application for income tax expense. Staff believes it is reasonable to substitute a gross-up factor approach to recognize the effect of income taxes on the system. Therefore, Staff removed the $50.00 income tax amount included in the Application as the gross-up factor included in Attachment "C", Column (D) line 36 provides for the effect of income taxes. The Company is organized as a Limited Liability Company and as such all income flows through to the personal income tax of the Turnipseeds. Staff used the State and Federal individual income tax rates to calculate the income tax gross-up factor of 1.22 necessary to produce revenues sufficient to provide an operating income after taxes and expenses of $618.24. The resulting tax amount would therefore be $136.26. Staff notes that prior income tax returns have been filed as a non-profit association operating at a loss.

The Company requested a return on rate base of 14%. One of the customer comments recommended a return of no more than 8.5% based upon the earnings of sixteen (16) western publicly traded utilities. Staff has used a return of 12% on Attachment "C", Column (D), line 34 in its revenue requirement calculation. Staff is aware that the earnings of many publicly traded utilities are currently at very low levels. As the economy recovers from its current recession, these returns should increase. The Commission has on numerous occasions recognized that the risks associated with ownership of a small water system with a small rate base and limited cash flow are inherently greater than the risks associated with a large company with a much larger customer base. The Commission has consistently used a 12% rate of return level for small water company's for many years and Staff sees no compelling reason to deviate from that return level.

The Company has arbitrarily included a 3% inflation factor in its calculation of revenue requirement. The Commission does not normally accept such an adjustment absent substantial compelling evidence that it is necessary. The Company has offered no such compelling evidence. Therefore, Staff has excluded the inflation adjustment in its calculated revenue requirement of $16,104.00.

RATE DESIGN

The Diamond Bar Estates water system design is such that the supply wells, reservoir, and pumping facilities provide water to each lot within the subdivision with service through a domestic meter and an optional separate irrigation meter. The domestic service is the typical underground metered service and the optional irrigation service is a larger diameter above ground metered service fitted with a backflow prevention device. The irrigation meters and backflow prevention devices are removed in the winter months to avoid freezing. Currently approximately one-half of the customers request irrigation meters annually.

Staff believes the Company designed the existing rates and service configuration to possibly improve the marketing of large residential lots. Currently domestic rates are $15 for the first 7,500 gallons and $0.95/1000 gallons for each gallon thereafter. For those customers that chose irrigation meters, the irrigation rates are a flat $225 per year regardless of usage.

The Company is requesting a revenue requirement of $23,123 to be collected through a domestic fixed/variable rate design of $21 per month base charge for the first 7,500 gallons and $0.85/1000 gallons thereafter and a separate variable charge of $0.75/1000 gallons for all water used through the irrigation meters. As stated previously, Staff recommends a lower revenue requirement of $16,104. Staff further believes that a single rate design for all water used is the most appropriate. If there is a difference in rates based on end use and service is provided to the same location from the same source at the same quality as is the case here the rates could be subject to gaming. Staff further believes that since meters are already installed on the system and metered service provides equity among users that any final rate design should be based on a metered volumetric rate. Therefore, Staff prepared and presented a single preliminary fixed/variable rate design at the public workshop held in Rathdrum on February 11, 2003.

In preparation for the workshop, Staff reviewed the available usage data and developed a fixed/variable rate design around typical water usage. Typical usage was established based on the domestic and irrigation meter reading data from August 2001 through July 2002. Averages were developed based on the 31 customers that were on the system for the entire period. Usage estimates were then extended for the 41 customers that are anticipated on the system going forward. All subsequent calculations are based on these estimates. The average total monthly customer usage was approximately 30,000 gallons and the average summer monthly irrigation usage was calculated at approximately 57,000 gallons.

At the workshop, customers overwhelmingly told Staff that the average usage information as presented would be inaccurate on a going forward basis. Customers explained that because of subdivision covenants and required lot development, future usage would likely include significantly more irrigation usage than that used to calculate test period averages. The covenants require landscaped front lawns and some homeowners plan to irrigate the full five acres. Some customers stated that they were just beginning to start the landscaping in the test period and many more will be completing the required landscaping in the next few years. Therefore, customers believe that future average usage would likely be closer to the individuals with large irrigation water usage found in the test period.

Customers also expressed great concern over the loss of a flat rate for irrigation. Several stated that they moved to the Diamond Bar development because of the flat rate irrigation service and their desire to live in a well-landscaped subdivision. The development is in proximity to a number of five-acre lot subdivisions and flat rate irrigation water was a consideration when choosing a lot.

Staff agrees that if customer usage is going to change dramatically over that measured in the test year, then any initial rate proposal based on historical usage would be ineffective in generating the authorized revenue requirement in the future. Staff also agrees that a flat irrigation rate would provide customers the opportunity to use all the water they wished at a fixed cost. Therefore, Staff in its Rate Design Alternatives (Attachment "E"), has included a flat rate proposal. The flat rate proposal is simply the revenue requirement of $16,104 divided by 41 customers and then divided by twelve months to get a required monthly flat rate of $32.73 for all customers.

However, Staff has many concerns regarding the flat rate proposal. First, metered rates are more equitable to customers. Each customer only pays for what they individually use. Second, metered rates send the appropriate price signal that more usage is more expensive. Without the price signal, water consumption could exceed system capacity and additional pumping facilities may be required. Third, metered rates provide customers some control over their individual bills and finally the meters are readily available.

After considering numerous rate design alternatives, Staff proposes a fixed/variable rate design of a $21.00 base charge for the first 7,500 gallons and then $0.50 /1000 gallon for each gallon thereafter for all water used by each customer (see Attachment "E"). Staff has considered customers' and the Company's concerns in this rate design. First, if historical usage is any indication, irrigation customers that use the historical average irrigation volume should experience no increase in irrigation costs over the previous year. However, customers that use as much as the largest users on the system (665,000 gallons annually), will experience a 26% ($225 to $283 annually) increase in irrigation costs. Second, even though the base rate will go up by 40% ($15 to $21 monthly) the overall average monthly rate is anticipated to increase by only 14%. Third, Staff's proposal addresses the Company's concern regarding revenue generation in the winter months by providing the same winter revenue as requested by the Company. Staff's proposal also provides increased revenue as usage increases to offset the increase in costs of service. Finally, both the flat rate and the fixed/variable rate proposals are generally in alignment with other regulated water companies in the vicinity (see Attachment "F").

Staff recommends a fixed/variable rate design with a base rate of $21 for the first 7,500 gallons and then $0.50/1000 gallons for each gallon thereafter. Staff further recommends that this rate design be reevaluated after one year to assess how usage patterns may have changed, what effect the new rates have had on customer bills, and how effectively the rate design generates the revenue requirement authorized by the Commission.

HOOKUP FEES

The Company has requested several one-time charges in this request. The Company has requested: 1) a hook-up fee of $1,000 for the installation of water meters; 2) $500 for connection to the domestic system, and 3) $500 for the installation of irrigation meters. Staff has reviewed these charges and believes the domestic hook-up fees are unreasonable. The Company has provided neither justification nor cost causation for the $1,000 water meter installation or the $500 connection charge. In fact, the Company has notified Staff that the charges were already collected at the sale of the lots and will not be collected again from anyone in the subdivision. The Company did discuss with Staff the cost to extend the main and connect an additional customer if requested. While it is conceivable that the Company could guess the location where a customer might want to extend and estimate a hook-up fee, Staff believes that a proper line extension policy is more appropriate. Staff recommends denial of the $1,000 water meter fee and the $500 water hook-up fee for domestic service. Staff further recommends that the Company work with Staff to develop an appropriate line extension tariff for the system and have it in place prior to extension of any service beyond those within the subdivision. Line extension tariffs protect existing customers from costs associated with extending service to new customers.

Staff has reviewed the costs for the parts included in the installation of irrigation meters, including the meter and backflow prevention device, and the costs are approximately $500. Staff believes that the proposed $500 one-time charge is an appropriate charge to customers for the installation of their individual irrigation meters. Assessing each individual customer the cost of their installation, when the optional meter is requested, avoids spreading the costs to other customers who receive no benefit from such facilities. Furthermore, there is no physical reason for separate irrigation meters from a system standpoint and Staff's uniform rate proposal requires only a single meter for domestic and irrigation service. Therefore, Staff recommends approval of the Company's requested $500 one-time meter fee for irrigation meters.

CONSUMER ISSUES

Included with Diamond Bar Estates Water Company's Application for a rate increase was a copy of its billing statement, termination notice, and a comprehensive summary of IPUC rules. All forms comply with IPUC's Utility Customer Relations Rules, IDAPA 31.21.01000 and Utility Customer Information Rules, IDAPA 31.21.02000.

The Company's proposed tariff includes a reconnection fee of $50 during business hours and $65 outside of business hours. Both the Disconnect Notice and the Rules Summary state that the Company will charge a reconnection fee of $15 during business hours and $30 all other times. The Company provided no cost basis for including an unusually high reconnect charge in its proposed tariff. In response to Staff's inquiry, the Company indicates that disconnection of service due to non-payment has not yet been necessary. Therefore, Staff recommends approval of a $15 reconnection charge during business hours and $30 all other times for reconnection of service due to a voluntary or involuntary disconnection. This charge will apply only to meters for domestic water service; it will not apply to the seasonal installation or removal of irrigation meters.

A workshop held February 11, 2003, in Rathdrum was attended by 24 customers representing 14 households. Bob, Rob & Christy Turnipseed, along with their accountant, Ralph Nelson attended the workshop. Bob Smith, Michael Fuss, Marge Maxwell and Scott Woodbury represented IPUC Staff.

Customers offered helpful information during the workshop discussion. They also brought up issues which do not fall under the Commission's jurisdiction. For example, the developer's promise made at the time of lot purchase for a flat irrigation rate was raised several times. Customers state there are landscaping requirements found in Diamond Bar Estates covenants, conditions and restrictions. While these issues are a major concern to customers, the issues involved the marketing efforts of the development rather than the water company and do not fall under the purview of this Commission.

In addition to general comments made at the workshop, ten individuals submitted nineteen written comments by February 19, 2003. Four of the ten individuals filed multiple comments. Two individuals requested another workshop or a hearing be held prior to the Commission's final decision. All of the written comments are now a part of the official case file and will be reviewed and considered by the Commission. Attachment "G" contains a brief overview of customers' written comments.

STAFF RECOMMENDATIONS

1. The Certificate Request: No objection has been received by the Commission from any party other than the customer comment expressing a desire to revisit the transfer of the system from the Association to Diamond Bar Estates, LLC. Staff recommends the Commission express its intent to issue a Certificate of Convenience and Necessity in sixty (60) days unless it receives positive proof that indeed the Association has entered into negotiation/litigation to reverse the sale transaction and return the system to the Association.

2. Staff recommends that the Commission either schedule a public hearing or provide the company and its customers an opportunity to present written responses to these Staff Comments.

3. Revenue Requirement: Staff recommends that the Commission determine that a revenue requirement of $16,104 is just and reasonable unless the Company or customers submit compelling evidence that this revenue requirement is not justified.

4. The Commission should direct the Company to submit documentation supporting the requested rate case expense amortization and adjust the revenue requirement to reflect the actual costs.

5. Rate Design: Staff recommends that the Commission establish a single fixed/variable rate design for all water use with a base rate of $21.00 for the first 7,500 gallons of consumption and $0.50/1000 gallons for consumption in excess of the 7,500 gallon base.

6. Staff recommends that the rate design be reevaluated after one year to assess how usage patterns may have changed, what effect the new rates have had on customers bills, and

how effectively the rate design generates the revenue requirement authorized by the Commission.

7. Staff recommends denial of the $1,000.00 domestic water meter fee and the $500.00 domestic water hook-up fee. The Company was unable to provide cost justification for the level of these fees. In addition, these fees were recovered from each lot owner at the time of purchase.

8. Staff recommends the Company work with Staff to develop an appropriate line extension tariff for the system and have it in place prior to extension of any service beyond the subdivision boundary.

9. Staff recommends approval of the Company's requested $500.00 one time meter fee for irrigation meters.

10. Staff recommends that customer reconnection fees (voluntarily or involuntarily disconnected) be set at $15.00 during normal business hours and $30.00 at all other times. This charge does not apply to the seasonal installation or removal of irrigation meters.

Respectively submitted this 21st day of February 2003.

Scott Woodbury
Deputy Attorney General

Technical Staff: Bob Smith
Michael Fuss
Marge Maxwell

SW:i:umisc/comments/gpww02.1swresmfussmm

RESOLUTION NO. 2002-4

A RESOLUTION OF THE DIAMOND BAR ESTATES HOME OWNERS ASSOCIATION TRANSFERRING OWNERSHIP OF THE WATER SYSTEM SERVING THE DIAMOND BAR ESTATES SUBDIVISION TO DIAMOND BAR ESTATES L.L.C.; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

WHEREAS, the Diamond Bar Estates Home Owners Association, Kootenai County, Idaho (the "Association") is a non profit home owners association operating and existing under and pursuant to the provisions of the Constitution and laws of the State of Idaho; and

WHEREAS, The Association currently owns certain assets of the water system serving the Diamond Bar Estates Subdivision and desires to transfer its interest in the water system to the Diamond Bar Estates L.L.C; and

WHEREAS, at the duly noticed and convened meeting of the Members of the Association held on June 3, 2002 at which a quorum was present, a majority of the Members voted to transfer all of the assets of and the improvements of the water system serving the Diamond Bar Estates Subdivision to Diamond Bar Estates L.L.C.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE DIAMOND BAR ESTATES HOME OWNERS ASSOCIATION, KOOTENAI COUNTY, IDAHO as follows:

Section 1: The Members determine it to be in the best interest of the Association for the Association to transfer ownership of the water system owned by the Association to Diamond Bar Estates L.L.C.

Section 2: The Association hereby transfers the water system to Diamond Bar Estates L.L.C. and authorizes its officers to execute a Bill of Sale for such water system on behalf of the Association.

Section 3: This Resolution shall take effect and be in force from and after its passage and approval.

DATED this 3rd day of June, 2002.

DIAMOND BAR ESTATES HOME OWNERS ASSOCIATION
Kootenai County, Idaho

Michael Meehan, Director

Timothy ~~Moorhead~~, Director
Morehead

ATTEST:

Carol Abelhanz, Secretary

(SEAL)

Attachment A
Case No. GNR-W-02-3
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BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS: DIAMOND BAR ESTATES, HOME OWNERS ASSOCIATION, INC., for and in consideration of the covenants and conditions set forth in the Transfer Resolution dated the 3rd day of June, the receipt whereof is hereby acknowledged, does by these presents grant, bargain, sell and convey unto, DIAMOND BAR ESTATES , L.L.C. and to their executors, administrators and assigns, all of that certain personal property and assets representing the water system serving Diamond Bar Estates subdivision, described in Exhibit "A" which is attached hereto and by this reference made a part hereof.

TO HAVE AND TO HOLD, the before-described property to DIAMOND BAR ESTATES , L.L.C., their executors, administrators, and assigns, forever.

IN WITNESS WHEREOF, DIAMOND BAR ESTATES HOME OWNERS ASSOCIATION, INC. certifies that the signature to this Bill of Sale is an authorized agent of the DIAMOND BAR ESTATES HOME OWNERS ASSOCIATION, INC. herein and has been granted the authority to affixed his signature hereto on behalf of said corporation this 3rd day of June, 2002

DIAMOND BAR ESTATES HOME OWNERS ASSOCIATION, INC.

By: Michael Meehan

Michael Meehan, Director

By: Tim Morehead

Timothy Morehead, Director

(SEAL)

Attachment B
Case No. GNR-W-02-3
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Exhibit "A"
WATER SYSTEM

The Water System transferred under this Bill of Sale includes the well, 65,000-gallon reservoir, distribution lines, water rights and monetary assets of the Water System located in the Diamond Bar Estates Subdivision

The physical assets of the Water System include but are not limited to:

The well serving the Water System including a pump, 6,500 gallon reservoir and the pump house located on Lot 999, Block 1, Diamond Bar Estates.

All control systems for the previously identified well and all associated equipment necessary to maintain and operate the well, which is housed in the pump house building.

The distribution portion of the system including waterlines serving the lots within the Subdivision, all existing fire hydrants and all existing water services and water meters.

A portion of the water rights for the existing well as set forth in the Water System Transfer Agreement.

The monetary assets of the Water System include the billing accounts, accounts receivable and reserves held for the Water System.