

Stipulation and division are prompted by additional requests for service and public concerns regarding the water table and water quality in private wells in the area. The proposed division results in an approximately equal division of the uncertificated area. In consequence, potential customers within the area will be able to obtain service from the utility closest to their location, thus minimizing line extension charges for those potential customers.

On January 17, 2007, the Commission issued Notices of Stipulation and Modified Procedure in Case No. GNR-W-04-01. The deadline for filing comments was February 9, 2007. Comments were filed by Commission Staff, the City of Boise and a number of affected property owners.

Public Comments

All property owners support resolution of this matter. One property owner relates that the tentative division line between Eagle Water and United Water is drawn between her two lots. The owner, Donna Murphy of Spring Creek, Nevada, requests that both lots be within the service territory of the same utility. The two lots are located on West State Street, Lot 5, Block 1, Randall Acres Subdivision No. 9 (R7334200041) and Lot 6, Block 1, Randall Acres Subdivision No. 9 (R7334200051). Another property owner, the Commission is informed, is desirous of water service by June 2007 and is located on the westernmost portion of the uncertificated area, at 10500 Shields near Horseshoe Bend Road.

City of Boise

The City of Boise strongly objects to the stipulated agreement. The City recommends that the entire area be served by United Water. As reflected in previous correspondence dated December 7, 2004, the entire area in question lies within Boise City's area of impact and the City anticipates that it will be annexed into Boise City in the near future. The City notes that it has already extended municipal sanitary sewer service into this area. Monthly sewer bills are based on the winter water consumption from the water provider once a customer is connected to public water. Boise City states that it has an excellent working relationship with United Water. If Eagle Water provides water service to the area, a new franchise agreement will need to be negotiated and additional coordination efforts will be required. Should the Commission approve the stipulated agreement, the City requests that Eagle Water Company

provide monthly water readings to Boise City at no charge for the purpose of preparing sewer bills in the same manner that United Water provides similar information to the City.

Comments of William and Ellene Parr

Although the Parrs have not formerly intervened in this proceeding, they note that they have been involved in the underlying subject matter from the outset. The Parrs wish to develop their property into multiple residences. They own a private well on their property but it possesses insufficient capacity and/or water quality to serve the intended development. Under the proposed allocation the Parrs would receive water service from United Water. The Parrs believe that the proposed allocation is reasonable and recommend approval of the Stipulation.

Commission Staff

Staff recommends that the proposed Stipulation and division of the uncertificated territory be treated in a bifurcated manner. In the case of United Water, Staff believes that United Water currently has sufficient water supply at acceptable pressures to serve its share of the uncertificated area. United Water has two supply pipelines located east of, and immediately adjacent to, the uncertificated area. Staff recommends that (1) the United Water proposed area of service be approved, and (2) that United Water be directed to submit an amended Certificate of Public Convenience and Necessity and stand ready to provide service to affected customers requesting service as soon as reasonably possible.

In the case of Eagle Water, Staff notes that Eagle Water is subject to an Idaho Department of Environmental Quality (DEQ) moratorium that precludes new water hook-ups in the service area requested. Staff recommends that the Commission defer action on the requested expansion of Eagle Water's certificated service area and not authorize Eagle Water to serve any new customers within the area described in the Stipulation unless and until DEQ lifts its moratorium. Staff recommends that Eagle Water be required to make a filing with the Commission after the moratorium is lifted demonstrating its ability to provide water service in the proposed certificated area of service.

Staff notes that on January 19, 2007, Eagle Water submitted its final Engineering Report to the Commission pursuant to Order Nos. 29840 (EAG-W-05-1) and 30213 (EAG-W-05-2). The report was also submitted to DEQ on the same day, as required by DEQ's Consent Order 1076/16RO. The final Engineering Report shows that with minor improvements, Eagle Water is currently capable of providing its existing customers with adequate system working

pressure under accepted modeling scenarios in which one critical well is assumed to be out of service. The report, however, indicates the need for an additional water source or an increase in booster station capacity in order to fully utilize the combined flow from two of the system's major wells. Because the report was only recently submitted, both the Commission Staff and DEQ require more time for review to fully evaluate system adequacy. In any case, as of the date of filing Staff's comments, DEQ has not lifted the moratorium on new connections. Staff is informed by DEQ that the moratorium must remain in place while the report is under review. Staff believes it is likely that DEQ will require at least some additional improvements to Eagle Water's system before the moratorium will be lifted.

Because the uncertificated area is presently served by private wells, Staff contends it is uncertain how many residents of the area will immediately request service. As a result, those few residents who may request service will likely be faced with fairly substantial line extension charges depending on their proximity to existing main lines. The one property owner requesting service in Eagle Water's half of the uncertificated area is located at 10500 Shields on the extreme western edge of the area, which coincidentally is the farthest from United Water's existing main lines on the opposite eastern edge of the uncertificated area. Thus, Staff notes, if the Commission chooses not to accept the Stipulation and instead orders United Water to serve the entire uncertificated area, line extension charges for the property owner on the western edge of the area may be so high that he cannot realistically afford to take service from United Water.

Commission Findings

The Commission has reviewed and considered the filings of record in Case No. GNR-W-04-01 including the January 4, 2007 Stipulation of United Water and Eagle Water, the proposed division of the uncertificated service area depicted in Stipulation Exhibit A and the related comments and recommendations of Commission Staff, the City of Boise and property owners in the affected area. The Commission is informed and is satisfied that a reasonable attempt was made to notify all affected property owners within the uncertificated area under consideration. Based on our review of the developed record we continue to find that the public interest does not require a hearing to consider the issues presented in this case and that Modified Procedure is appropriate. IDAPA 31.01.01.204.

Eagle Water Company and United Water Idaho have submitted a Stipulation and proposed division of an uncertificated area near Eagle in Ada County. Eagle Water, we find, is

presently under a moratorium established by DEQ and Consent Order and is presently unable to serve customers located within the uncertificated area under consideration. Staff recommends that the portion identified as service area for United Water be awarded to United Water and recommends that the remaining area remain uncertificated until such time as Eagle Water is able to make a filing with the Commission indicating that the moratorium has been lifted and demonstrating that it is capable of providing service. One party providing comments owns adjacent lots on either side of the proposed division and requests that the two lots be assigned to the same utility. Another party requesting service owns property on the extreme western edge of the uncertificated area, an area adjacent to the main line of Eagle Water Company. The City of Boise noting that the entire uncertificated area lies within the City's area of impact, recommends that the entire area be awarded to United Water.

The Commission finds it reasonable to treat the Stipulation and proposed division in a bifurcated manner. Our decision regarding the proposed expansion of service area is based upon a consideration of public convenience and necessity. We find that United Water has the present capability to provide water service to the area designated for United Water service. We find it reasonable to award to United Water that portion of Stipulation Exhibit A designated as United Water service area. We find it also reasonable to award to United Water the adjacent lot on West State Street belonging to Donna Murphy of Spring Creek, Nevada, so that United Water is the service provider for both lots.

As to Eagle Water Company we find that Eagle Water is presently subject to a DEQ moratorium that prevents it from hooking up new water customers. Because Eagle Water does not have the present capability of providing water service we find it reasonable to defer action on the requested expansion of Eagle Water's certificated service area until after DEQ lifts its moratorium. That being said, however, we note that in the proposed split of service territory one customer expressing a desire for water service lies within Eagle Water's proposed area of service. That customer lies along the westernmost portion of the uncertificated area and is adjacent to and in close proximity to Eagle Water's existing facilities. We find it reasonable to authorize Eagle Water Company to extend service to this lot located at 10500 Shields without further application to this Commission. Regarding the remainder of the uncertificated area designated in Stipulation Exhibit A for Eagle Water Company service, we find it reasonable to require Eagle Water to make a filing and motion with the Commission in this docket after the

DEQ moratorium and any other impediment to service is lifted demonstrating its ability to provide water service in the proposed certificated area of service. The Commission will consider the objection raised by the City of Boise at such time as Eagle Water reinitiates its request for the remainder of the expanded service area requested.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Eagle Water Company and United Water Idaho Inc., water utilities, and the issues raised in Case No. GNR-W-04-01 pursuant to the authority granted in Idaho Code, Title 61, and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby authorize United Water Idaho Inc. to expand its certificated service area in the manner reflected above.

IT IS FURTHER ORDERED and United Water is directed to file an amended Certificate of Public Convenience and Necessity and service area map conforming with the expanded certificated area of service authorized in this Order.

IT IS FURTHER ORDERED and Eagle Water Company is authorized to provide water service without further application to the property located at 10500 Shields should a formal request be made for service and should the Company be capable and able to provide service.

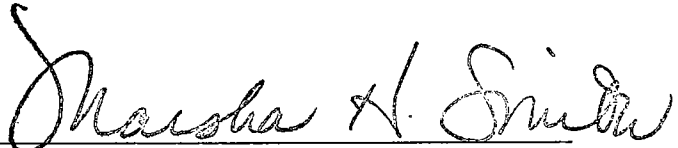
IT IS FURTHER ORDERED and the Commission defers decision on the remainder of Eagle Water Company's request for expanded service area until such time as the Idaho DEQ's moratorium is lifted and Eagle Water provides the Commission with notice and motion in this case docket reinitiating its request for expanded service area.

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 20th
day of February 2007.



PAUL KJELLANDER, PRESIDENT

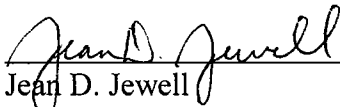


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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