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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF ALLOCATING THE)
UNCERTIFICATED WATER SERVICE) CASE NO. GNR-W-04-1
TERRITORY IN THE VICINITY OF EAGLE,)
IDAHO.)
)
) COMMENTS OF THE
) COMMISSION STAFF
)**

COMES NOW the 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 Stipulation, Notice of Modified Procedure and Notice of Comment/Protest Deadline issued on January 17, 2007, submits the following comments.

BACKGROUND

On October 14, 2004, the Commission issued Order No. 29610 addressing service territory issues raised by Eagle Water Company, Inc.'s ("Eagle Water") Application to Amend its Certificate of Public Convenience and Necessity in Case No. EAG-W-04-02. Following a comment period and oral argument, the Commission ultimately approved a Settlement reached by Eagle Water and United Water Idaho Inc. ("United Water") to allocate the five parcels in question between the two companies. In regard to William and Ellene Parr's request for water

service and the need for a comprehensive allocation of uncertificated territory in the growing community of Eagle, the Commission wrote:

We understand that the parties are working with William and Ellene Parr to determine if and how water service can be provided to their property. The Commission asks that the parties keep us informed as to the status of the Parrs' request for service. Finally, we open a new docket in Case No. GNR-W-04-1 to consider allocation of the uncertificated service territory in the Eagle area. The Commission directs Staff to establish workshops to work through the requisite issues of such an undertaking. Tr. at 17-18, 20-21.

Order No. 29610 at 3.

On November 19, 2004, a workshop to investigate issues related to the allocation of the uncertificated service territory in the Eagle area, including the property owned by William and Ellene Parr, was held in Boise, Idaho. What followed was an informal stay of proceedings to allow Eagle Water Company and United Water Idaho an opportunity to negotiate a proposed split of the uncertificated area. Cost estimates to provide service to the Parr's were provided by both United Water and Eagle Water. Given the estimated costs, the Parr's were unable to proceed with either company at the time. Because there were no requests for service from other potential customers in the affected area and because no agreement could be reached between the companies as to how to split the uncertificated area, the matter remained unresolved.

Additional recent requests for service and a renewed desire by the Parr's for service has prompted the proposed Stipulation and division of the uncertificated area.

ANALYSIS

The uncertificated area under consideration is currently served by individual, private wells. As a consequence of failing wells, water quality concerns, and a desire by some property owners to develop (and re-develop) some properties, there have been several recent requests for water service in the uncertificated area.

The proposed division as described in the Stipulation results in an approximately equal division of the uncertificated area. According to the Stipulation, United Water would be allocated 117 total lots and Eagle Water would be allocated 104 lots. 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.

United Water

The Parr property is located in the portion of the uncertificated area proposed to be served by United Water. Staff has recently received an additional request from a developer proposing to develop 10-13 patio homes on property also located in United Water's proposed share of the uncertificated area. It is Staff's understanding that both property owners wish to develop the properties this spring, and desire to begin receiving service from United Water in the immediate future.

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, and immediately adjacent, to the uncertificated area.

Eagle Water

Staff has received only one request for service from a customer located in Eagle Water's proposed share of the uncertificated area. That customer also desires to begin receiving service in the next few months.

As the Commission is aware, Eagle Water has for several years had ongoing problems providing adequate water pressures in areas located primarily on the northeastern edge of its system, not far from the uncertificated area at issue in this case. In August 2005 the Commission issued emergency Order No. 29840 directing Eagle Water to "use all deliberate speed" to increase low water pressure in a portion of its service territory. In addition to taking immediate action, the Company was directed to prepare an engineering report to address the chronic low-pressure problems in the existing water system and forecast water supply needs out to 2010. "The report shall include the recommended system improvements, construction schedule and estimated cost of each individual [improvement]." Order No. 29840 at 3. The engineering report was to "serve as a 'road map' for determining exactly what infrastructure improvements are necessary to serve the present and future needs of Eagle Water and its customers." Order No. 29903 at 7. The Company was ordered to "complete its engineering study as soon as possible." Id. at 9.

Prompted by the Commission's concerns about the Company's ability to provide acceptable service, the Idaho Department of Environmental Quality (DEQ) placed a moratorium on Eagle Water, prohibiting it from connecting any new customers to its system until it has

completed an engineering study demonstrating that it is capable of providing adequate service to new customers. DEQ Consent Order 1076/16RO.

On June 2, 2006, Eagle Water submitted its "preliminary engineering report" to the Commission and to the Idaho Department of Environmental Quality (DEQ). Both Staff and DEQ asked the Company to submit additional information as part of the Company's final engineering report. 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.

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 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 submitted two weeks ago, both the Commission Staff and DEQ need more time for review to fully evaluate system adequacy. In any case, as of the date of filing these comments, DEQ has not lifted the moratorium on new connections. Staff is informed by DEQ that 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.

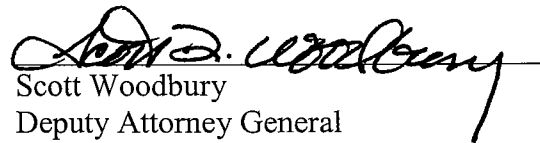
Because the uncertificated area is presently served by private wells, it is uncertain how many residents of the area will immediately request service. As a result, those few residents who may request service will likely be faced with fairly substantial line extension charges depending on their proximity to existing main lines. The one customer requesting service in Eagle Water's half of the uncertificated area is located 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, 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 customer on the western edge of the area may be so high that he cannot realistically afford to take service from United Water.

RECOMMENDATION

Staff recommends that the proposed Stipulation and division of the uncertificated territory as described in Attachment A be treated in a bifurcated manner. 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 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 the Company is subject to a moratorium that precludes new 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 the Company to serve any new customers within the area described in the Stipulation unless and until DEQ lifts its moratorium. The Company should be required to make a filing with the Commission after the moratorium is lifted demonstrating its ability to provide water service in its proposed certificated area of service.

Dated at Boise, Idaho, this 9th day of February 2007.


Scott Woodbury
Deputy Attorney General

Technical Staff: Rick Sterling

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 9TH DAY OF FEBRUARY 2007, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. GNR-W-04-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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