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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF GOLDAN, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY. | )  )  )  ) | CASE NO. GNR-W-94-1  ORDER NO.  26526 |

On October 17, 1994, Goldan, Inc. (Goldan) filed a set of financial statements with the Commission as an Application for authority to operate as a regulated public water utility through the Algoma Village Water System and the Sagle Valley Estates Water System.  The Application was signed by Mr. Leo J. McGavick.  Goldan also requested that the Commission establish rates and charges for water service for the two systems.

On June 29, 1995, the Commission issued Order No. 26074 ruling that each of the two water systems was being operated as a “public utility” as that term is defined in Title 61 of the Idaho Code.  By this Order, we establish rates and charges for the Algoma water system and resolve a number of other related issues.

BACKGROUND

On May 23, 1996, the Commission conducted an evidentiary hearing in this case for the purpose of establishing rates and charges for service provided by the Algoma and Sagle Valley water systems.  The two parties that presented evidence at the hearing were the Commission Staff and Mr. Gary Callihan, who manages and has an ownership interest in both water systems.  Subsequent to the evidentiary hearing, Mr. Callihan, the sole owner of the Sagle Valley system, sold the system to the Sagle Valley Water and Sewer District.  The transaction was consummated on June 24, 1996.  As discussed below, the Commission no longer has jurisdiction to regulate the Sagle Valley system by virtue of the sale to the water and sewer district.  The bulk of the discussion below, therefore, pertains only to the Algoma system.

Commission Staff

The Algoma Water System has approximately 21 residential customers who have been paying a flat monthly rate of $52 for water and sewer service.  One half of this charge ($26) is attributed to each service.  There are also four commercial customers on this system who have been charged 1.6 times the residential rate ($83.20) for water and sewer service.  Most, if not all, of the Algoma customers have individual meters.  The system is supplied by one well with a 96-gallon per minute (gpm) capacity and a storage reservoir holding 60,000 gallons.  There are two booster pumps capable of delivering 250 gpm from the reservoir into the distribution system.  It is the opinion of the Commission Staff that the system, as engineered, can supply peak demand even without the storage reservoir.

In determining the value of the capital assets used in providing service to customers of Algoma and Sagle Valley, Staff relied upon the undepreciated replacement costs of those assets in 1994 dollars discounted back to the year of original installation, as means of approximating the original cost.  Staff notes that prior to 1995, financial data for the Algoma and Sagle systems were commingled along with several other businesses.  Beginning in 1995, a separate accounting system was established but it still commingles the Sagle Valley and Algoma systems and there is no separation of the water system costs from sewer costs.  Relying upon nine months of available data, Staff separated and assigned the financial data between the two systems and then further separated the data between the water and sewer services.

According to the Commission Staff, the Algoma system was acquired through a direct purchase of the water and sewer systems.  No other properties were involved in this purchase.  The owners paid $95,000.  Staff believes that the Commission should not recognize this purchase price as a fair valuation for inclusion in rate base and on which to base a return.  Staff believes, rather, that the Commission should consider all of the purchase price as an acquisition adjustment.  The purchase was made from the final developer of the subdivision who would have recovered the costs of the system from the sale of lots as presumed by the Commission’s Rule 103.

The Commission normally does not allow a return on acquisition adjustments, Staff contends, unless there is clear evidence that the customers on the system will realize some compensating benefit.  Staff believes, therefore, that the Algoma system’s rates should be based solely upon the recovery of operating costs including reasonable compensation for labor to operate, maintain and manage the system.  Based upon this rationale, Staff computes a flat monthly residential rate for Algoma of $14.52; $11.48 less than the current $26.00 per month flat fee.  The average monthly commercial rate, Staff asserts, should be $23.23; $18.37 less than the current flat-rate of $41.60.

Regarding customer service, Staff asserts that it has experienced difficulty obtaining information from the Company as evidenced by a lack of response to Staff’s February 17, 1995 production request.  Staff stresses that the owners/operators of the Algoma system must adopt and follow the Commission’s Utility Customer Relations Rules (UCRR) and the Utility Customer Information Rules (UCIR).  Staff has provided the utility with both sets of rules.

Staff has also supplied Mr. Callihan with a set of model general service rules and regulations for small water utilities which are designed to be applicable to all small water utilities with no or only minor modifications needed to meet the special needs of any specific company.  The Company is free to either adopt these rules and regulations or submit its own version for approval by the Commission.

In summary, Staff recommends that the Company provide proof of ownership of the Algoma system, make a concerted effort to address customer concerns, better communicate with customers and the Commission, become easily accessible to its customers, submit its tariff schedules and its general rules and regulations for providing water service for Commission approval, provide a copy of its summary of UCR Rules which is required to be given annually to customers, provide the Commission with a copy of its bill and cooperate with Staff to make any necessary changes to meet UCRR requirements.

Gary Callihan

The Algoma system presented the testimony of Mr. Gary Callihan who, as indicated earlier, intends to acquire complete ownership of the system. Callihan concedes that he is now the party responsible for operating and maintaining the system.  Callihan believes that, overall, the Staff’s report and recommendations with respect to Algoma are accurate.  He further believes that the rates proposed by Staff are fair so long as they are adjusted to recover costs associated with mandated water testing and attorney fees incurred in preparation for this proceeding.

Regarding the water testing fees, Callihan states that he must conduct SOC and VOC tests on the system at a cost of over $1,000 every three to five years.  He believes that the costs of these tests should be included in rates.

Second, Callihan notes that he incurred $4,065.61 in attorney fees in preparation for this proceeding, which he proposes to recover over three years.  This figure pertains to both the Sagle Valley and Algoma water systems.

Callihan notes that he intends to begin reading the individual meters of Algoma customers and hopes to implement a metered rate at some point in the future.  He further notes that he has reviewed the Commission’s rules and regulations dealing with water companies and has incorporated those rules in his tariffs and will abide by them in all future dealings with his customers.

FINDINGS

We asserted our jurisdiction over the Algoma and Sagle Valley water systems in Order No. 26074.  As noted, however, the Sagle Valley system was subsequently sold to the Sagle Valley Water and Sewer District, a municipal corporation.  Idaho Code § 61-104 defines the term “corporation,” for the purpose of determining whether an entity constitutes a public utility (Reference Idaho Code § 61-129), as specifically not including municipal corporations.  We find, therefore, that the Sagle Valley Water and Sewer District is not a public utility subject to our jurisdiction.  The findings of this Order pertaining to rates, charges and other terms, therefore, are applicable only to the Algoma system.

With regard to the Algoma system, there appears to be no evidence upon which to establish a rate base.  Staff is correct that this Commission values plant, for purposes of calculating rate base, at its original cost less accumulated depreciation.  Moreover, it is a long-standing policy of this Commission that, with respect to small, developer-owned water companies, it is assumed that the initial cost of the water system is recovered through the sale of lots and, therefore, should not be recovered through rates.  Because of the foregoing and the fact that Mr. Callihan does not challenge Staff’s recommendation, we find that there is no basis upon which to determine a rate base.  The rates we hereby adopt for Algoma, therefore, are based solely upon the reasonable operating costs of that system.

With the exception of costs related to water quality testing and attorney fees, Mr. Callihan does not object to the operating costs, and the rates resulting from those costs, proposed by Staff.  We also note that Staff concedes that these adjustments are reasonable both in theory and amount.  We find, therefore, that the rates proposed by Staff, as adjusted according to Mr. Callihan’s recommendations, are fair, just and reasonable and are hereby adopted.  Mr. Callihan filed on July 17, 1996, a detailed schedule of his costs for processing this case.  His costs totaled $4,065.61.   Only one-half of this cost is attributable to the Algoma system and included in the rates we approve by this Order.  That rate, as adjusted, is $17.59 per residential customer per month and $28.15 per commercial customer per month as shown on Attachment No. 1 to this Order.

Regarding rate design, we find that a flat monthly rate is appropriate for Algoma considering the absence of individual usage data.  Mr. Callihan is directed to read the meters of the Algoma customers for a period of three months and to provide that usage data to the Commission Staff on or before December 1, 1996, to determine whether a rate based on actual usage would be justified.

Perhaps the most important aspect of this case is the concerns expressed by customers, as well as Staff, regarding the overall quality of service that has been provided in the past by the owners of the Sagle Valley and Algoma systems.  Clearly, the owners have not been responsive to customers’ inquiries and problems creating an atmosphere of distrust and animosity.  So long as the Algoma system continues to operate as a public utility, it is obligated to comply with the Commission’s various customer rules and to provide reasonable service.

Chapter 7 of Title 61 of the Idaho Code vests this Commission with authority to enforce the provisions of its rules, regulations and orders and to seek injunctive relief in district court or to impose monetary penalties in the event a utility fails to comply with an Order of the Commission.  We hereby direct Mr. Callihan to immediately bring the operation of the Algoma system into compliance with the UCRR and UCIR and to otherwise respond diligently and promptly to inquiries of customers and the Commission Staff.

O R D E R

IT IS HEREBY ORDERED that the Algoma water system shall be issued Certificate of Convenience and Necessity No.  321 simultaneously with this Order.

IT IS FURTHER ORDERED that the owners of the system shall file a tariff with the Commission consistent with the terms and conditions of this Order no later than August 12, 1996.  The rates and charges approved by this Order shall become effective for service rendered beginning with the month of September 1996.

IT IS FURTHER ORDERED that the owners of the Algoma system shall otherwise comply with all other terms, conditions and directives set forth in this Order.

THIS IS A FINAL ORDER.  Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No.  GNR-W-94-1 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No.  GNR-W-94-1.  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 August 1996.

                                                                                                                                      RALPH NELSON, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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(text box: 2)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF GOLDAN, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY. | )  )  )  )  )  ) | CASE NO. GNR-W-94-1   CERTIFICATE OF CONVENIENCE AND  NECESSITY NO. 321 |

IT IS HEREBY CERTIFIED that the public convenience and necessity requires Goldan, Inc., its successors and assigns to hold, construct, or otherwise acquire, to maintain and to operate a water system and water supply to that certain territory in Bonner County, Idaho described as the Algoma Addition; South 1/2 of the Southeast 1/4 of Section 16, Township 56 North, Range 2 West, Boise Meridian located in Bonner County, Idaho, as recorded in the Bonner County Recorder Office.  This certificate is for such purpose to own, hold, construct or otherwise acquire and to maintain and operate within said territories water wells, reservoirs, tanks, towers, stand pipes, collectors, settling basins, galleries and other works and structures, and also to lay, take up, repair, renew, extend, alter, maintain and operate water mains, pipes, conduits, aqueducts, hydrants and other appliances, equipment and facilities in, upon, over, under, along, through and across all streets, avenues, alleys, streams, highways, roads and other public places in said territory as the same now exists or may hereafter be extended, laid out or established, and to exercise the rights and privileges granted, or to which may hereafter be granted Goldan, Inc., its successors or assigns, by any franchise conferred by the state of Idaho or any political subdivision thereof.

This Certificate is predicated upon and issued pursuant to the findings and conclusion of Order No. 26526  in Case No. GNR-W-94-1 to which reference is hereby made.

DATED at Boise, Idaho this                  day of  July 1996.

                                                                                     RALPH NELSON, PRESIDENT

                                                                                     MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**COMMENTS AND ANNOTATIONS**

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Text Box 2:

**TEXT BOXES**

Office of the Secretary

Service Date

August 2, 1996

Office of the Secretary

Service Date

August 2, 1996