BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE INVESTIGATION  INTO WHETHER PACKSADDLE DEVELOP­MENT CORPORATION IS A PUBLIC UTILITY SUBJECT TO COMMISSION REGULATION. | ))))))) | CASE NO. GNR-W-95-1ORDER NO.  26296 |

On January 17, 1995, the Commission received a Petition requesting an investigation into whether Packsaddle Development Corporation (Packsaddle; Company) is a public utility and therefore subject to Commission regulation.  Packsaddle is a small water company that provides water service to approximately 30 customers in the Packsaddle Creek Estate Subdivision near Tetonia, Idaho.  In Order No. 26077 issued June 30, 1995, the Commission concluded that Packsaddle is a public utility.   On September 6, 1995, the Commission conducted a hearing in this case in Driggs, Idaho, for the purpose of collecting evidence to set rates and charges for water services.  In this Order the Commission establishes rates for water service and issues a Certificate of Public Convenience and Necessity to Packsaddle.

PROCEDURAL HISTORY

In December 1994, Packsaddle notified its customers that water rates were going to be increased in February 1995 from $15 to $28 per month and again in May 1995 to $74 per month.  This notice was the catalyst that led to numerous calls to the Commission and a Petition from customers in January 1995, seeking an investigation into whether Packsaddle is subject to Commission regulation.

Packsaddle provides water service to approximately 30 customers in the Packsaddle Creek Estate Subdivision.  Only 27 of the 89 lots in the subdivision have been developed and connected to the water system at this time.  Many of the improved lots are summer or part-time second homes.  In Order No. 26077 issued June 30, 1995, the Commission found that Packsaddle is a public utility pursuant to Idaho Code §§ 61-125 and 61-129.  Consequently, Packsaddle is within the Commission’s jurisdiction and the provisions of the public utilities law.  Order No. 26077 also established an evidentiary hearing to set rates.  In Order No. 26095 issued July 21, 1995, the Water Users were granted intervenor status in this case.

On September 6, 1995, the Commission convened a hearing in Driggs, Idaho, for the purpose of collecting evidence to set rates and charges for water services.  During the hearing, the attorneys for Packsaddle and the Water Users informed the Commission that the two parties were on the verge of completing an agreement to transfer the water system to the Water Users.  The two parties had not executed a written agreement and indicated that they had some minor issues to resolve before execution.   Also at the hearing, Staff’s testimony was put into the record for the purpose of completing the record.  The attorneys for Packsaddle and the Water Users stipulated on the record to waive the right to cross-examine the Staff witnesses and to allow the  testimony to be used for rate setting purposes.  No other party offered testimony at the hearing.  In Order No. 26188, the Commission set a deadline of November 3, 1995, for the Water Users and Packsaddle to inform the Commission that the transfer had been completed.

The November 3 deadline has passed and no signed agreement has been submitted to the Commission.  Attorneys for both parties have indicated that communication has broken down between Packsaddle and the Water Users and they are unable to execute a written agreement.  On November 16, 1995, the Water Users filed a Motion for Hearing seeking to have the Commission rule on the reasonableness of the proposed agreement described at the evidentiary hearing in Driggs.   Packsaddle filed a response opposing the Motion.

On December 14, 1995, Staff filed a Motion to establish and implement rates for Packsaddle based upon the evidence it submitted at the hearing.  The Company filed a response concurring to the Motion.   No response was filed by the Water Users.

This Order discusses three issues: (1) Water Users Motion for Hearing on the reasonableness of  a proposed agreement; (2) the issuance of a Certificate of Public Convenience and Necessity for Packsaddle to operate as a public utility; and (3) Staff’s Motion to implement rates.

ISSUES

A.  Water Users Motion

We find that a hearing on the reasonableness of the proposed agreement described orally at the evidentiary hearing in Driggs is not necessary.  There has been no signed written agreement or settlement for the Commission to consider.  The Commission understands that the  agreement proposed orally at the previous hearing is no longer intact.  Should the parties reach an agreement, the Commission will entertain a request for approval of the agreement.   Absent a signed agreement there is no purpose for a hearing and we therefore deny the Water Users motion.

B.  The Systemand Public Need

1.  The System

The water system for the Packsaddle subdivision is composed of two wells with a total production capacity of 100 gallons per minute; a concrete 80,000-gallon storage tank; a steel 7,500-gallon storage tank; a pressure pump; a 50-gallon pressure tank; and approximately 20,000 feet of main line.

During 1992 and 1993, the Company was experiencing water supply problems due primarily to the drought.  The original well (Well No. 1) is 385 feet in depth, was sloughing at the bottom and getting dangerously close to drying up.  The Company installed a separate water supply system to provide water from a spring owned individually by the stockholders while repairs to the well were accomplished.  In 1993 a new pump was installed at a cost of $2,395.44.  Well No. 1, even with its new pump, has a pumping capacity of only 30 gallons per minute which is inadequate to serve the subdivision if and when it is completely developed.

Packsaddle installed a second well (Well No. 2) in 1994 at a cost of $21,341.43.  This well was paid for through the issuance of a note payable to the Bank of Commerce in Driggs,  in the amount of $20,475.  The note carries an interest rate of 9% and is payable in three installments of $8,084.42 due in August 1995, 1996 and 1997.  Well No. 2 has a pumping capacity of 70 gallons per minute, and when combined with Well No. 1, brings the total pumping capacity to 100 gallons per minute.

Other major repairs to the system in recent years included the replacement of a pressure pump in 1993 (at a cost of $403.89) and replacement of a pressure tank in 1994 (at a cost of $482.79).  With the replacement of the pump in Well No. 1, replacement of the pressure pump and tank in 1993 and 1994, and the addition of Well No. 2 in 1994, the system’s water supply is practically new and should serve for a number of years without major expenses.  Staff testified that the system is more than adequate to serve the existing customers and has the ability to meet the needs of the subdivision when the development is complete.  We find the system is adequate to serve the customers.

2. Public Need

When the petition requesting this investigation was filed with the Commission, Packsaddle had not been issued a Certificate of Public Convenience and Necessity.   Idaho Code §§ 61-526 through -528 set out the guidelines for issuance of such a Certificate.  Idaho Code § 61-526 specifies that there must be a public need for the service, that the territory for service by the utility must not already be served by another utility, and that the utility has the financial ability and good faith to construct and maintain the system.  See also Rules 111-113,  IDAPA 31.01.01.111-113.

 We find that the Packsaddle’s water system is an adequate system.  Packsaddle has recently upgraded its system as discussed above.  Staff has determined that the system can serve the needs of the customers.  It is well engineered; it has good sources of water, and the ability to deliver water to the customers.  There is no other water utility presently serving the Packsaddle Estates Subdivision.  Packsaddle has the ability to serve its customers and there is a public need for water services in the Packsaddle subdivision.  Therefore we issue Packsaddle a Certificate of Public Convenience and Necessity to operate as a public utility.

C.  Operating Elements

1.  Rate Base

When Packsaddle notified its customers that the water rates were going to be increased in February 1995 from $15 to $28 per month and again in May 1995 to $74 per month, the Company stated that the increased rates were to recover all back debts incurred against the water system.  After investigation into the proposed rates, Staff determined that the rates were intended to recover the cost of: the new Well No. 2; the pump in Well No. 1; the new pressure tank; and the new pressure pump.  In addition, the Company indicated that the rate was designed to provide for $500 per month to pay maintenance labor costs,  $174 per month for electricity, and provide funds for unforeseen emergencies.

The Commission’s policy regarding a developer-installed water system is to assume that the developer recovers all of the initial investment in the system through the sale of lots.  This policy is based on two premises:  Either the water system was required by local officials before the subdivision was allowed, which means the lots were unsalable absent the system, or the system was in place thereby increasing the value of the lots.  Consequently, the developer has no initial investment in the system upon which to earn a return and rates are based upon a reasonable operating costs including compensation for the time spent managing and maintaining the system.  When major replacements of facilities are required due to age and failure, the replacement cost is treated as a new investment and a return is allowed.  IDAPA 31.36.01.103 (Rules for Small Water Companies).

We find that the Packsaddle Estates’ original supply system and the transmission mains represent the initial investment assumed to have been recovered through the sale of the lots.  We further find that the rehabilitation of Well No. 1 and the new pump in that well, the replacement of the pressure tank and the replacement of the pressure pump, are replacement investments which constitute items included in the ratebase.  The amount recommended for ratebase is $3,282.12 as described in Appendix 1, attached and incorporated by reference.

 The large investment in Well No. 2 presents a different problem.  This well is not a replacement, it is a new well and is necessary to complete the system for adequate service to the entire subdivision.  The subdivision is only about one-third developed.  The existing customers could be adequately served by the original well, assuming drought conditions did not threaten to dry up the well.  Of course, this is exactly the condition experienced in 1992 and 1993 that led to the temporary connection of the private spring and the drilling of the new deeper well in 1994.  We find that the cost of Well No. 2, although it improves system reliability, was a necessary investment to complete the water system which has or will be recovered through the sale of lots.  Consequently, the $21,341.43 cost of Well No.2 is not included in ratebase.

2.  Rate of Return

After reviewing the evidence, Staff recommends a 12% return on rate base.  Because the Company has no debt, any debt associated with the water system is personal debt of the stockholders.  Therefore for ratemaking purposes it is assumed that the entire capital structure of the Company is composed of stockholder equity.  This is not unusual for a company of this size.  The return on equity allowed by the Commission has to recognize the return on the investment that could be earned from other alternative investments and then add or subtract from that return percentage point to recognize the relative risk of the utility system in comparison to the risk of the alternative investment.  This Commission recently granted Capitol Water Corporation a return on equity of 12% in Order No. 26247, issued November 27, 1995.  Warm Springs Mesa, a water company serving in Boise, was also authorized a 12% return in Order No. 25445 dated March 25, 1994.  Staff recommended the 12% rate of return based on the relative risk of this system in comparison to the risk assumed by stockholders of similar water companies like Capital Water and Warm Springs Mesa.  We therefore find the 12% rate of return on rate base for Packsaddle to be fair, just and reasonable.

3.  Expenses and Revenue Requirement

Reasonable operating costs must be allowed in any revenue requirement approved by the Commission.  These operating costs include not only repair material and supplies but also depreciation expense, water testing expense, taxes (including corporate income taxes), electricity for pumping, reasonable compensation for labor costs to maintain the system, and administrative functions.  Because Packsaddle does not have a corporate vehicle, a reasonable mileage allowance for the use of private vehicles to perform water system business should also be provided.  The Company has no payroll and individuals are not being compensated for either labor or the use of private vehicles.  Staff recommends annual operating expenses totaling $12,258.13 as itemized in the attached appendix.  This amount is based on Staff’s estimate of anticipated expenses and does not represent actual expenses incurred by Packsaddle.  The amount seems high to us considering the number of customers and quality of the system.  It is however, the only information available for our use in this record.  We will adopt Staff's proposed operating costs as reflected in the appendix.    However, in any future rate proceeding for this company we will expect to see actual expenses, time and administrative concerns documented fully before expenses will be allowed.

Staff’s testimony proposes a total annual revenue requirement, including the return on rate base, and operating costs of $12,761.78.   We find the revenue requirement of $12,761.78 to be fair, just and reasonable.

4.   Rate Design

   There are currently 27 customers connected to the water system with a potential of 89 customers.  Of the current customers, 10 are part-time or seasonal.  Staff evaluated these seasonal customers to be equivalent to 7.5 full-time customers and used 24.5 equivalent full-time customers in its rate design calculations.  The revenue requirement spread over 24.5 equivalent full-time customers yields a rate of $516 ($43/month) per year per customer.  Staff recommends an annual rate but with the option for customers to make payment arrangements with the Company to pay monthly or quarterly.  Staff recommends this as a flat rate design.  This is based on the fact that there are no meters and currently is no compelling reason to install meters.  Another reason for choosing a flat rate design is that over 87% of the cost of the water system exists just to make water available regardless of whether any water is used, therefore the flat rate design is the most reasonable rate design.  We find the recommended annual rate to be cumbersome for billing, bookkeeping and administrative matters.  It is more fair and reasonable for the customers to pay on a monthly basis.  Therefore we find that $43/month should be adopted as the rate to be collected for service each month or any portion thereof.

As the seasonal customers are likely to take service about 6 months of the year and then close their accounts, Staff recommends a reconnect fee be set at $130 to allow a more equitable sharing of costs by seasonal customers.  Staff also recommends that customers involuntarily disconnected in credit related situations which are resolved in less then 45 days should be charged a non-recurring fee of $25.  Finally, Staff recommends a hookup fee of $430 for service hook-up, meter box, and meter base.  We find the above recommended fees to be fair, just and reasonable.

5.  Customer Relations Rules and Regulations

Finally, the Commission's Rules and Regulations on Customer Relations apply to all public utilities in the state.  These rules prescribe the terms and conditions for the customer to receive service.  The rules specify that the utility is required to adopt the policies and practices including deposits, disconnections and billings in accordance with Commission standards.  A utility is also required to file its proposed rate schedules, line extension policies and general service provisions with the Commission for its approval.  An annual report containing the financial statement of the utility must also be filed with the Commission.  Packsaddle, a regulated utility,  must comply with all Commission Rules and Regulations on Customer Relations.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Commission finds that Packsaddle is a public utility pursuant to Idaho Code §§ 61-125 and 61-129.  We further find there is a public need for water services in the Packsaddle subdivision, therefore we issue Packsaddle a Certificate of Public Convenience and Necessity to operate as a public utility.

The Commission also grants Staff’s Motion to establish and implement rates.   Idaho Code §§ 61-301 and -307 requires that the Commission establish just and reasonable rates for each utility.  We find the ratebase of $3,282.12, operating expense of $12,258.13, the rate of return of 12% and the resulting revenue requirement of $12,761.78 to be fair, just and reasonable. We find the rates as set forth above are designed to recover the revenue requirement established and are fair, just, reasonable and nondiscriminatory.

O R D E R

IT IS HEREBY ORDERED that the Water Users Motion for Hearing on the reasonableness of the proposed oral agreement is denied.  The Staff’s Motion to establish rates for Packsaddle is granted.

IT IS FURTHER ORDERED that Packsaddle be issued a Certificate of Public Convenience and Necessity No. 320 to operate as a public utility.

IT IS FURTHER ORDERED that Packsaddle file tariffs of rates and charges in compliance with the terms of this Order.  These rates are effective one day after the service date of this Order.

IT IS FURTHER ORDERED that Packsaddle file tariffs that incorporate the Commission’s rules and regulations as required by law and in compliance with 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-95-1 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-95-1.  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  January 1996.

RALPH NELSON, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE INVESTIGATION  INTO WHETHER PACKSADDLE DEVELOP­MENT CORPORATION IS A PUBLIC UTILITY SUBJECT TO COMMISSION REGULATION. | ))))))) | CASE NO. GNR-W-95-1CERTIFICATE OF CONVENIENCE AND NECESSITY NO. 320 |

IT IS HEREBY CERTIFIED that the public convenience and necessity requires Packsaddle Development Corporation, 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 Teton County, Idaho described as Packsaddle Estates Subdivision located in Township 5 North, Range 44 East, Section 8, NE, SE, Boise-Meridian, Teton County, Idaho, as recorded in the Teton 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 Packsaddle Development Corporation, 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. 26296  in Case No. GNR-W-95-1.

DATED at Boise, Idaho this                  day of  January 1996.

RALPH NELSON, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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