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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-95-1  MOTION TO ESTABLISH AND IMPLEMENT RATES |

Pursuant to IDAPA 31.01.01.056 and 31.01.01.256, Susan Hamlin, attorney of record for Commission Staff, hereby moves the Commission to establish and implement rates as a public utility for Packsaddle Development Corporation.

BACKGROUND

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 Estates Subdivision near Tetonia, Idaho.  In its Order No. 26077, issued June 30, 1995, the Commission concluded that Packsaddle is a public utility according to Idaho Code § 61-129, and is therefore subject to the jurisdiction, control and regulation of the Commission and the provisions of the public utilities law.  In that Order the Commission authorized Packsaddle to charge each customer a monthly rate of $28 for water service rendered on or after July 1, 1995, pending an evidentiary hearing. On September 26, 1995, the Commission conducted a hearing in this case in Driggs, Idaho, for the purpose of setting rates and charges for water service.  At the hearing, attorneys for Packsaddle and the Packsaddle Creek Estates Subdivision Water Users Association (Water Users), who petitioned to intervene in this case, 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 attorneys for Packsaddle and the Water Users described the proposed agreement at the hearing.  At that time, the two parties had not executed the written agreement and indicated they had to resolve some minor issues before execution.

During this hearing, for the purpose of completing the record, the attorneys for all parties stipulated that Staffs’ testimony could be spread upon the record. The attorneys for Packsaddle and the Water Users stipulated on the record to waive the right to cross-examine the witnesses and to the use of the testimony for future rate setting.  Tr. at 13-14.  Order No. 26188 set a deadline of November 3, 1995, for the Water Users and Packsaddle to inform the Commission that the transfer had been completed.

At this time, the 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 the written agreement.

Idaho Code § 61-129 defines “public utility” as every “water corporation” or “every corporation or person . . . owning, controlling, operating or managing any water system for compensation within the state.”  Title 61 of the Idaho Code gives the Public Utilities Commission the jurisdiction and authority to set rates for utilities that are just and reasonable.  The record to establish rates has been stipulated to by the parties and is complete.

STAFF’S MOTION

Staff has encouraged the parties to complete their agreement and the transfer of the system to the Water Users.  The Commission has also been patient to provide an opportunity for success by the Water Users.  However, those efforts to date have been unsuccessful.  Therefore, pursuant to Title 61 of the Idaho Code, Staff respectfully requests that the Commission establish and implement rates for Packsaddle based on the record filed by the Staff and stipulated to by the parties.

RESPECTFULLY submitted this                  day of  December 1995.

Susan Hamlin

Deputy Attorney General

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