March 26, 1996

Kenneth & Dorothy Ferguson

1088 Redwood Drive

Idaho Falls, ID 83401

RE: The scope of rehearing in the Packsaddle case

Dear Mr. & Mrs. Ferguson:

The Commission has received your letter dated March 5, 1996 regarding the Packsaddle rehearing.  Given the fact that the case is currently pending rehearing, the Commissioners have asked that I respond to your letter.

You asked about the appropriateness of spreading Packsaddle’s overhead costs across the undeveloped lots as well as the existing water customers.  You expressed concern that the Commission’s Order No. 26339 granting reconsideration did not mention this issue, especially after receiving a letter from Commissioner Smith indicating that the “issues” raised in your initial letter of January 26, 1996, “will be addressed in our reconsideration process.”

Your initial letter of January 26, 1996, listed several concerns about the Commission’s initial Order No. 26296. Besides the issue of spreading the operating costs over the undeveloped lots, you also mentioned the related issues of: the rate structure; the amount of time and cost for routine maintenance; the total amount of operating expenses; and the  possible rate reduction for “seasonal customers.”  All of these issues in some respect are related to the rehearing issues.  The issues on rehearing include the following:

1. Rehabilitation of Well No. 1 in Rate Base.

In Order No.  26296, we found that the rehabilitation of Well No. 1, including the new pump in that well, the replacement of the pressure tank, and the replacement of the pressure pump, are replacement items which constitute capital investment properly included in the Company’s rate base.  Id. at 5.  Young requests reconsideration on this finding alleging that the replacement of this equipment was “incurred when an improperly drilled well collapsed and caused the motors and pumps to burn out.” Young Affidavit at 2.  He contends, therefore, that this item was improperly included in rate base.

2. Operating Expense.

In Order No. 26296, we included reasonable compensation for labor costs to maintain the system and a reasonable mileage allowance for the use of private vehicles to perform water system business as part of the operating costs in the revenue requirement.  Id. at 6.  Young and Lingle/Patla maintain that annual operating expenses are excessive based on the number of customers (27) and the quality of the system.  Young Affidavit at 3.  Lingle/Patla Petition at 2.

3. Rate Design.

The Commission adopted Staff’s rate design of calculating the 27 customers connected to the water system for part-time or seasonal customers.  The 10 seasonal customers were equated to 7.5 full-time customers to equal a total of 24.5 full-time customers in its rate design calculation.  Order No. 26296 at 7.  Young alleges there is an error in the calculation of full-time and seasonal customers in the rate design.

4. Estimated Expense vs. Actual Expense.

In calculating Packsaddle’s operating expense, Order No. 26296 adopted Staff’s estimate of anticipated expenses which did not represent actual expense incurred by Packsaddle.  Id.  at 6.  The Order states “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.”  Id.  Lingle/Patla assert the rates should be based upon actual expense rather than estimated expense and state that they will submit evidence to supplement the record.  Lingle/Patla Petition at 1.

At this time, I do not know exactly what evidence will be offered on these issues, but you may attend the rehearing and present testimony regarding those issues set out for reconsideration.

Let me turn now to your specific question of recovering some portion of the Company’s expenses from the undeveloped lots.  Water systems developed in conjunction with subdivisions present unique and difficult regulatory problems.  As you have pointed out, the presence of the water system adds value to the undeveloped lots within the subdivision.  To avoid the problem of a few initial customers paying for the entire system, the Commission calculates for ratemaking purposes that the price of a subdivision lot includes a portion of the water company’s plant.  This has the effect of lowering the total amount of water company plant that must be recovered from customers and assumes lot owners have already paid for a portion of plant costs when they purchase a lot.  In addition, I am unaware of any utility cases where operating costs of the water company are attributed to undeveloped lots or owners who do not consume water.

It is important to address one other point.  You mentioned in both your letters that you were given an HUD document in 1973 that “promised water to [your] lot at a fixed rate of $6 per month in perpetuity and a Water Agreement was filed with the County to this effect.”  As you know, the Commission was not aware of the water company’s existence until it began its investigation on January 17, 1995.  The Commission’s duty is to set just and reasonable rates for utility service in Idaho.  Representation involving the contractual relationship between a buyer and seller of real estate is beyond the Commission’s jurisdiction.  You may wish to consult with an attorney if you have further questions regarding this specific issue.

I hope this letter answers your questions and clears up any miscommunication.  If you have further questions, please call me at (208) 334-0312.

Sincerely,

Donald L. Howell, II

Deputy Attorney General

DLH/vld:L:Ferguson.dh

cc:Commissioners

OAG