(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE INVESTIGATION INTO WHETHER VALLEY VIEW SUBDIVISION, INC. IS A PUBLIC UTILITY SUBJECT TO COMMISSION REGULATION | )  )  )  )  ) | CASE NO. GNR-W-96-1  ORDER NO.  27328 |

On March 14, 1994, the Idaho Public Utilities Commission (Commission) received a Petition and Complaint from water customers of Valley View Subdivision, Inc. (Valley View; Company), requesting an investigation into whether the company was operating as a public utility subject to Commission regulation.  The Company is managed and operated by Mr. John Jasper, who along with his wife are the sole shareholders.

The Commission by this Order finds that Valley View is operating as a public utility subject to Commission jurisdiction, issues a related Certificate of Public Convenience and Necessity, establishes approved rates and charges, and requires adoption of general service provisions.

Valley View operates a water and sewer system located within Valley View Subdivision, approximately two miles southeast of Kamiah, Idaho on the east side of US Highway 12 opposite the Clearwater River.  The Valley View Water System provides water to approximately 49 customers within the subdivision, and is comprised of two wells (32 gpm; 12 gpm), two storage reservoirs (2,000 gal.; 120,000 gal.) and distribution piping.  Tr. p. 68; Exhibit 106.  A consulting engineer’s report in 1994-1995 indicates that an orifice in the 32 gpm well limits its output to 20 gpm.  Tr. p. 68.  The large reservoir is located 240 feet above the highway.  Water pressure for customers nearest the highway has been measured at 106 psi, for customers nearest the large reservoir at 55 psi, and for the six customers served by the small reservoir at 70 psi.  Tr. p. 68.  Staff interrupted its informal investigation of Valley View in mid-1994 when the customers of the water system began to take action to organize a water and sewer district in anticipation of purchasing the water system.  On March 14. 1995, the homeowners filed a Petition in their local District Court for approval of a water and sewer district.  On December 20, 1995, the District Court signed an Order establishing Valley View Water and Sewer District.  Efforts to purchase the system have been unsuccessful.  Tr. p. 5.

In the spring of 1996 the Commission received additional phone calls and letters from Valley View customers complaining of a rate increase and poor quality water.  On June 11, 1996, the Commission in Order No. 26487 initiated this case as a formal investigation into the operations of Valley View.  Commission Staff completed its investigation of the Valley View Water System and on February 10, 1997, submitted its report to the Commission.  Staff’s report concluded that Valley View is operating as a public utility as defined in Title 61, Idaho Code and was therefore subject to Commission regulation.

A public hearing was held in Kamiah, Idaho on October 15, 1997.  The following parties appeared by and through their respective counsel:

Valley View Subdivision, Inc.Danny J. Radakovich, Esq.

Mernita McDonaldJohn R. Tait, Esq.

Commission StaffScott D. Woodbury, Esq.

Commission Staff was the only party to submit prefile testimony and exhibits.  Despite its failure to provide prefiled testimony, the Company was permitted to present a witness at the hearing.

The Staff recommends that the Commission:

1.Determine that Valley View is operating as a public utility as defined in Title 61, Idaho Code, and exercise its regulatory authority over the Company.  Tr. p. 6.

The Company’s witness testified that the water system is owned by the water corporation (Tr. 151); that the customers have no say or control over how the system is operated or managed, or what rates and charges are assessed (Tr. p. 178); and indeed the Company states that it is generally none of their business (Tr. p. 188).

2.  Issue a Certificate of Public Convenience and Necessity to Valley View Subdivision, Inc. dba Valley View Water System for the following described existing service territory: the Valley View Subdivision located in the Southwest Quarter of Section 18 and Northwest Quarter of Section 19, Township 33 North, Range 4 East, Boise-Meridian, Clearwater County, Idaho.  Reference Idaho Code §§ 61-526, 61-528; IDAPA 31.01.01.111.  Tr. p. 6.

3.Utilize a test year ending June 30, 1996, a rate base of $28,529 (Exhibit 101), a 12% return on equity (Exhibit 104), and a calculated annual revenue requirement of $17,480 (Exhibit 104), establish tariff rates for metered service with a $20 per month customer charge plus $1.73/1,000 gals commodity rate for all water consumption and require the Company to meter at its own expense the three to four remaining unmetered customers.  Reference Exhibit 107.

The Company presently charges a $20 basic fee plus $2.67/1,000 gals.  Tr. p. 74.  By Company choice, the water rates mirror the municipal water rates charged by the City of Kamiah.  Tr. pp. 163-182.  The Company contends that there should be a penalty for over-usage-i.e., for usage exceeding 6 to 8,000 gals per month.  Tr. p. 169.

4.Establish a $15 per month vacation rate for periods of 60 consecutive days or more in which there is no metered water consumption.  Tr. p. 74.

5.Require adoption by the Company of the Commission’s Utility Customer Relations Rules (UCRR; IDAPA 31.21.01) and Utility Customer Information Rules (UCIR; IDAPA 31.21.02).  Exhibit 108.  Staff contends the rules provide a guide for just, reasonable and non-discriminatory treatment of customers.  Tr. p. 127.

6.Authorize the Company to impose a 1% per month late fee (12% annual rate) for accounts with balances more than 30 days past due.  Tr. p. 130.

The Company presently assesses a $5/month charge if payment is not received prior to the 25th; a 1 1/2% finance charge, compounded monthly on past due balances; and a $50 restoration charge for non-payment disconnections.  Tr. p. 128.

7.Authorize a reconnection fee of $25 for previously disconnected customers (voluntary or involuntary).  Tr. p. 131.

8.Authorize the Company to collect a $338 connection fee for a first-time connection to the water system.  Tr. pp. 72, 73.

The Company presently charges a $1,250 new water hook-up fee in addition to a $338 meter installation fee.  Tr. pp. 72, 73.

9.Require the Company to devise a multiple balance billing format to separate water and sewer charges on customer billings, and to include in the bill format information required by UCRR 201.  Tr. pp. 131, 132.  To prevent misunderstanding, Staff recommends that the Company not be allowed to include on billing statements past due amounts incurred prior to regulation; nor be permitted to disconnect for non-payment of same.  Tr. p. 132.

10.Establish a moratorium on all new water service connections until an adequate water supply is assured.  Tr. p. 74.  Staff contends that the Company does not have an adequate water supply for its 49 customers.  Tr. p. 69.  It is to be noted that an additional 58 lots remain undeveloped.  Valley View customers, Staff states, are already conserving water to an unusual degree.  The recorded/estimated average use per Valley View customer in July 1996 was approximately 8800 gallons as compared with typical summer consumption for other metered water companies of 30,000 to 80,000 gals/month.  Tr. p. 71.  As a rule of thumb, Staff contends that an adequate water supply is approximately 3 gallons per minute per customer.  With 49 customers this would require approximately 150 gals per minute (compare estimated 32 gals per minute production capability of Company wells).  Tr. p. 93.  Staff opines that the presence of reservoirs may reduce the required capacity by 25%.  Tr. p. 101.

It is the Company’s opinion that its wells are supplying sufficient water.  Tr. p. 153.  The Company presented significantly lower average monthly consumption figures for customers for the five months May-September 1997 period, approximately 6,000 gals.  Tr. p. 154.

11.Require the Company to contract with a consulting engineer to evaluate system pressures and supply problems (to determine required well capacity for existing and future customers; to evaluate water pressures in lower system elevations to determine if pressure reducing valves should be installed.  (Tr. p. 73.)

12.Require the Company to file tariff sheets reflecting rates, including non-recurring charges and general service provisions (reference Exhibit 110).  Tr. p. 133.  Staff notes that it is available to work with the Company in designing its tariff schedules, customer information, billings and required notifications.  Tr. p.133.

Pursuant to Rule 103 “Policies and Presumptions for Small Water Companies”, the calculated rate base for Valley View excludes the initial construction cost of the backbone plant for the water system (wells, main lines, service taps), it being presumed that the cost of initial construction was recovered in the sale of lots.  Tr. pp. 7, 8, 21, 25, 55, 56.  The Company contends that because some of the initial lots were transferred when the initial developers parted ways and assets were divided, that the presumption works an injustice.  Tr. p. 147.  Staff contends that it is reasonable to assume that the increased valuation of lots associated with water improvements was recognized in any division and allocation of assets.  Tr. p. 23.

Commission Findings

The Commission has reviewed and considered the filings of record including the transcript of proceedings and the investigative report, testimony and exhibits of the Commission Staff and the Company, and finds that the record supports the following findings.

Based on the established record, a review of Idaho Code Title 61, and the nature and manner of control exercised by Valley View Subdivision, Inc. in the operation and management of the Valley View water system, we find it necessary to assert formal regulatory jurisdiction over the water system operated by Valley View Subdivision, Inc. (Valley View; Company) and to issue Certificate of Public Convenience and Necessity No. 338 to Valley Subdivision, Inc., a public water utility, for the following described existing service territory: the Valley View Subdivision located in the Southwest Quarter of Section 18 and Northwest Quarter of Section 19, Township 33 North, Range 4 East, Boise-Meridian, Clearwater County, Idaho.  Reference Idaho Code §§ 61-526, 61-528; IDAPA 31.01.01.111.  We further find that the present and/or future public convenience and necessity requires issuance of said certificate.

As a regulated utility the Company is required to adopt the Commission’s Utility Customer Relations Rules, Utility Customer Information Rules, and an accounting system consistent with the information required by the Commission’s annual report for small water companies.  As the Commission does not regulate sewer services, the Company is required to devise a multiple balance billing format to separate water and sewer charges on customer billings.

We also find it fair and reasonable based on Staff accounting and engineering testimony and related financial exhibits to approve a calculated annual revenue requirement for Valley View of $17,480 (Exhibit 104) and to establish tariff rates for metered service for the Valley View water system at $20 per month customer charge plus $1.73/1,000 gallons commodity rate for all water consumption.  The Company is directed to file tariff sheets reflecting rates, including non-recurring charges and general service provisions.  Despite any prior unregulated practice to the contrary, the Company is expressly advised that as a regulated water utility it is not authorized to assess or collect charges from unimproved lots, i.e. lots with no service connections or customer requests for water service.

Given the supply constraints of the Valley View water system, we find it reasonable to require the metering of all customers.  We note that there are just a few unmetered customers.  We find it reasonable to require the immediate metering of any existing unmetered customers and to authorize termination of water service if any unmetered customer refuses to allow metering or obstructs the Company in its efforts to install a meter.  Although Staff has recommended that the Company install said meters at its own expense, we find this recommendation, on the facts of this case, to be unreasonable.  We instead authorize the Company to assess and collect from existing unmetered customers a $388 meter fee.

We find it reasonable to permit and authorize the Company for a first-time connection to the water system to assess and collect a $500 connection fee and a $338 meter fee.  The Company is reminded that all connection fees and meter fees are customer contributions and not additions to rate base, and should be accounted for accordingly.

We find it reasonable to authorize Valley View to assess and collect a reconnection fee of $25 for previously disconnected customers (voluntary or involuntary).  To encourage customers to remain connected during periods of extended absence, we also find it reasonable to authorize the Company to assess and collect a $15 per month “vacation rate” (in lieu of $20 per month customer charge) for periods of 60 consecutive days or more with no or de-minimis metered water consumption.  Customers desiring to switch to a “vacation rate” must provide the Company with prior written notification.  The request for same must indicate the beginning date of absence and expected date of return.

The Commission finds it reasonable to authorize the Company to impose a 1% per month late fee (12% annual rate) for accounts with balances more than 30 days past due.  To prevent any misunderstanding and to establish a demarcation line corresponding to the issuance of Certificate No. 338, the Company is not allowed to include on billing statements past due amounts incurred prior to regulation; nor is the Company permitted to disconnect water service for non-payment of same.

Finally, we note our concern regarding perceived water system supply constraints.  Staff has requested a moratorium on all new water connections until an adequate water supply is established.  The Commission has reviewed a preliminary report from an independent consulting engineer retained by the Company.  We find it reasonable to condition new water connections on prior receipt by the Company of a written opinion from a licensed engineer that the Company water system has adequate supply for existing and future customers.  Staff also expresses concern regarding system water pressures at lower elevations.  The Company is advised to assess water pressures within the system and to consult with a licensed engineer to determine whether safety or other requirements dictate that pressure reducing valves be installed.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction and authority over Valley View Subdivision, Inc., a water utility, and the issues raised in this case, pursuant to Title 61 of the Idaho Code and the Commissions Rules of Procedure, IDAPA 31.01.01.000 et seq.

O R D E R

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby issue Certificate of Public Convenience and Necessity No. 338 to Valley View Subdivision, Inc., Clearwater County, Idaho.

IT IS FURTHER ORDERED and the Commission does hereby establish rates and charges as set out above.  The Company is required to file tariff sheets consistent with this Order.

IT IS FURTHER ORDERED and the Company is required to adopt and implement the Commission’s Consumer Relations Rules, the Commission’s Utility Customer Information Rules, and an accounting system consistent with the information required by the Commission’s annual report for small water companies.

IT IS FURTHER ORDERED and the Company is required to inform its customers of the Commission approved rates and policies.

IT IS FURTHER ORDERED and the Company is required, weather and ground conditions permitting, to immediately meter any existing unmetered customers.

IT IS FURTHER ORDERED and the Company prior to any new water service connection is required to obtain the written opinion of a licensed engineer that the Company water system has adequate supply for existing and future customers.

THIS IS A FINAL ORDER.  Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order.  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 February 1998.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

February 10, 1998