(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-96-1ORDER NO.  27438 |

On February 10, 1998, the Idaho Public Utilities Commission (Commission) issued final Order No. 27328 in Case No. GNR-W-96-1.  In its Order, the Commission found that Valley View Subdivision, Inc. (Valley View; Company) was operating as a public utility subject to Commission jurisdiction.  The Commission issued Certificate of Convenience and Necessity No. 338 to Valley View, established approved rates and charges, and required adoption of general service provisions.  By document dated, faxed and mailed March 3, 1998, pursuant to Commission Rules of Procedure No. 331.04, Valley View timely filed a “Petition to Reconsider.”  In particular, Valley View requests the following:

1.With respect to the Commission finding in the third paragraph on page 5 relative to sewer charges, Valley Subdivision, Inc., petitions the Commission to specifically state that, since the Commission does not regulate sewer services, that this decision by the Commission does not, in any way, reflect upon the sewer charges by Valley View, whether past or future.  The reason for this is that Valley View is presently attempting to collect delinquent sewer charges from a variety of people and said people are going to attempt to defeat the collection efforts by suggesting to the court that Valley View’s status as a regulated utility precludes such collection efforts;

2.With respect to the Commission finding in the fourth paragraph on page 5 relative to past charges for water, Valley View Subdivision, Inc., petitions the Commission to specifically state that the decision by the Commission in this matter does not, in any way, reflect upon the validity or collect ability of delinquent past water charges by Valley View.  The reason for this is that Valley View is presently attempting to collect delinquent water charges from a variety of people and said people are going to attempt to defeat the collection efforts by suggesting to the court that Valley View’s status as a regulated utility, and this decision by the Commission, are a determination as to what Valley View should have been charging for water services in the past.  During the period of time leading up to the hearing in this matter, the Commission Staff repeatedly assured the undersigned that the decision by the Commission in this matter would have absolutely no effect on the past charges of Valley View;

3.With respect to the Commission’s finding in paragraph 4, page 5 of the decision with respect to the appropriate rate to charge for water services, Valley View petitions the Commission to include language allowing Valley View to seek a rate increase which may be necessary to finance any work which is necessary to make any improvements recommended by an engineer to certify that the system will support additional lots;

4.With respect to the Commission’s finding in paragraph 2 on page 6 of the decision with respect to the connection fee, Valley View petitions the Commission to insert language allowing Valley View to reach an agreement with new customers whereby the customer can, with the agreement of Valley View, hire a third party to perform the connection.  The purpose of this is to allow Valley View to have the customer privately contract the connection if experience shows that Valley View cannot economically perform the connection for the $500 amount specified by the Commission;

5.With respect to the Commission’s finding in paragraph 3 of page 6 of the decision with respect to notification of a desire to switch to “vacation rate”, Valley View petitions the Commission to insert language requiring the written notice be delivered to Valley View by the customer no less than thirty (30) days prior to the desired start date of the “vacation rate.”

On March 9, 1998, the intervenor, Mernita McDonald (McDonald), filed a Cross-Petition and Objection to Petition to Reconsider.  McDonald contends first that the Valley View Petition is untimely.  McDonald then proceeds to set out her objections, numbered in the same manner as in the Valley View petition.  Her objections can be generally summarized as follows:

1.  McDonald contends that the Commission’s finding that “the Commission does not regulate sewer services” is a concise statement of its jurisdiction and that it should not be altered or expanded.  Ms. McDonald suggests that Valley View requests further comment of the Commission to aid it in separate litigation in other forums.

2.  McDonald seemingly attempts to characterize delinquent water rate charges assessed prior to regulation as charges not permitted by Idaho law and contends that it would be inappropriate for the Commission to offer an opinion or statement regarding procedures for collecting said amounts.  Citing Utility Customer Relation Rules, IDAPA 31.21.300-400.

3.  Regarding engineer recommended improvements, McDonald contends that the Commission cannot give prior authorization for recovery of an unknown and undetermined expense amount.  An application regarding same would have to be made.

4.  No objection.

5.  No objection.

Commission Findings

The Commission has reviewed and considered its final Order No. 27328 in Case No. GNR-W-96-1, the Petition for Reconsideration filed by Valley View, and the related filing of Mernita McDonald.  We initially find that Valley View’s Petition was timely filed.  Reference IDAPA 31.01.01.331.04.

In reviewing Valley View’s Petition, we find that the Company makes no contention that the Commission’s Order No. 27328 is unreasonable, unlawful or erroneous, or that it in anyway fails to conform with law.  Reference Idaho Code § 61-626; IDAPA 31.01.01.331.  In considering same,  we find that our final Order No. 27328 in Case No. GNR-W-96-1 is both reasonable and lawful and requires no further elaboration.  In preparing compliance tariffs, the Commission Staff is available to help with drafting and other questions, including insertion of an administratively reasonable notification time period for switch to a “vacation rate.”

We therefore find it reasonable to deny Valley View’s Petition for Reconsideration. in Case No. GNR-W-96-1  Reference Idaho Code § 61-626(2).  The Commission having chosen to deny Valley View’s Petition, we find that Idaho statute permits us to deny the Cross-Petition of Mernita McDonald.  Reference Idaho Code § 61-626(1).

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 Commission’s 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 deny Valley View Subdivision, Inc.’s Petition for Reconsideration and Mernita McDonald’s Cross-Petition for Reconsideration.

THIS IS A FINAL ORDER ON RECONSIDERATION.  Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No. GNR-W-96-1 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules.  See Idaho Code § 61-627.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of March 1998.

                                                                                                                                       DENNIS S. HANSEN, PRESIDENT

                                                                                            RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

bls/O:GNR-W-96-1.sw3

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

March 30, 1998