MEMORANDUM

TO:COMMISSIONER HANSEN

COMMISSIONER NELSON

COMMISSIONER SMITH

FROM:SCOTT WOODBURY

DATE:DECEMBER 5, 1997

RE:CASE NO. GNR-W-96-1

VALLEY VIEW SUBDIVISION, INC.  (WATER UTILITY)

INVESTIGATION RE: COMMISSION JURISDICTION

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.  Reference Idaho Code §§ 61-104 Corporations; 61-124 Water Systems; 61-125 Water Corporations; and 61-129 Public Utility.  The Company is managed and operated by Mr. John Jasper, who along with his wife are the sole shareholders.

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, in hopes of purchasing the water system, began to take action to organize a water and sewer district exempt from the jurisdiction of the Commission.  Reference Idaho Code § 61-104.  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 an additional rate increase and poor quality water.  On June 11, 1996, the Commission in Order No. 26487 initiated Case No. GNR-W-96-1, 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.  Reference Staff Exhibit 105.  Staff’s report concluded that Valley View was operating as a public utility as defined in Title 61, Idaho Code and was therefore subject to Commission regulation.

Public hearing in Case No. GNR-W-96-1 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

Mernita McDonaldJohn R. Tait

Commission StaffScott D. Woodbury

Commission Staff was the only party to submit prefile testimony and exhibits.  Reference IDAPA 31.01.01.231.  Despite its failure to provide testimony, the Company was permitted to put a witness on at hearing.  The testimony and recommendations of the parties can be summarized as follows:

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.Utilizing 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 $17,480.95 (Exhibit 104), establish tariff rates for metered service at $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.  (Compare typical summer consumption for United Water customers 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.

Commissioner Nelson inquired whether Staff had considered utilizing an operating ratio or sinking fund.  Tr. p. 54.  The Company contends that additional monies are needed for future repair, replacement and improvements.  Tr. p. 165.

Commission Decision:

The transcript and exhibits are available for your review.  The memorandum was structured in such a way that it presents a natural decision tree for your considered reflection and findings.

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Scott Woodbury

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