COYOTE COEUR D’ ALENE CORPORATION

d.b.a. HAPPY VALLEY WATER

This company (Coyote; Company), although a relatively new Idaho corporation (incorporated in Idaho on March 6, 1996), is not a new water system.  The water system was originally built in 1980 by Mr. Earl Reamy.  It is located in Kootenai County, Idaho approximately three miles west of U.S. Highway 95.  The service area is located on the north side of Hayden Avenue between Huetter and Meyers Roads and includes all of the south ½ of Section 17, Township 51 North, Range 1 West of the Boise Meridian.  Mr. Reamy sold the water system to Coyote Coeur d’Alene Corporation on August 29, 1996.

An investigation into the utility status of this water system was begun following a complaint received by the Commission in March of 1994.  The Commission Staff (Staff) conducted an investigation and prepared a report (See Exhibit No. 101).  During the course of its investigation the Staff determined that if the Commission were to exercise its regulatory jurisdiction over this system, rates would need to be established that would on the average cost the customers $41.67 per month for their water service.  The Staff also learned during the course of its investigation that the owner (Mr. Reamy) was in the process of attempting to establish a homeowners association to take over the water system.  Staff’s conclusions upon completion of its investigation was that it was in the best interest of both the owner and his customers for a homeowners association take over operation of the water system.  Staff provided copies of its report to Mr. Reamy, each of his customers, and conducted a public meeting in Post Falls on December 21, 1995.  At the Post Falls meeting it appeared that the customers intended to form an association to take over the system.

Throughout 1995 Staff was led to believe that negotiations were in process to form an association and therefore no further action was taken by Staff.  In early 1996  Staff came to the conclusion that negotiations between Mr. Reamy and the customers had stalled and it was necessary to take steps to bring the utility under the Commission’s regulation.  Mr. Reamy was so informed by letter dated February 23, 1996.  On March 6, 1996, Staff was informed by

Mr. Reamy that an association had been formed and a memorandum of understanding between Mr. Reamy and the association for the terms of purchase of the system was imminent.  Staff wrote Mr. Reamy a letter dated March 7, 1996 informing him that if an executed copy of the memorandum of understanding was not received by the Commission by April 12, 1996, Staff would petition the Commission to open a formal docket and proceed on a path toward regulation of the system.  The memorandum was not filed but no action was taken by Staff until

September 27, 1996 when Staff requested that the Commission open a formal case and direct

Mr. Reamy to file an application for a Certificate of Public Convenience and Necessity.  The Commission issued Order No. 26643 on October 15, 1996 opening Case No. GNR-W-96-3

and instructing Mr. Reamy to file his application within 30 days.  On October 16, 1996, a customer sent a fax to the Commission that indicated the water system was under new ownership (Coyote Coeur d’Alene).  The fax was a copy of a letter to the customers informing them of the new ownership and an increase in rates to be effective January 1, 1997.  Staff was not informed either by Mr. Reamy or the new owner that a sale was contemplated, pending or executed.  Staff verified by a telephone call to Mr. Reamy that indeed the sale had taken place.

Staff visited briefly with the new owner the week of October 21, 1996 in Coeur d’ Alene,  provided copies of the Commission’s rules, and explained the requirement to file an application for a certificate.  Mr. L.W. “Zeke” Davis is the primary stockholder and President of Coyote.  He expressed a willingness to cooperate but expressed concern in meeting the deadline established by Order No. 26643.  Mr. Davis was advised to write to the Commission requesting an extension of time in which to comply with the order.  The Commission received a letter from Mr. Davis on October 28, 1996 requesting a 60-day extension.  The Commission granted a 60-day extension by Order No. 26684 on November 14, 1996 and ordered no change in present rates and charges to customers without prior Commission approval.

Since that time Coyote has provided information requested by the Staff, including a map of the requested service area and an  operating budget for the water system under the new owner’s management.  The requested service area represents nearly six square miles.  The Company is currently serving ½ square mile.  On December 23, 1996, the Commission received a letter from Mr. Davis formally requesting a certificate.

Staff has reviewed the budget, requested service area, purchase contract and the file of information collected over the last two and one half years since the first complaint was received.  Since the water system has been under new management for only a few months, there is no financial track record to review.  Staff’s review of the Company while owned and managed by Mr. Reamy indicated that the average monthly revenues per customer of $41.67 were justified.  However, Mr. Reamy was charging various rates ranging from $20, $30 and $32.50 during that two and one half years.  The current rates are $32.50 for the first 20,000 gallons plus $.50 per thousand gallons in excess of 20,000.  Mr. Davis informed customers in early October 1996 of his intent to increase rates effective January 1, 1997 to $42.50 for the first 20,000 gallons plus $.70 per thousand gallons in excess of 20,000.  This notice was given to customers prior to the issuance of Order No. 26684 directing the Company to not increase rates without prior Commission approval. Staff understands the Company is currently billing some customers at the higher rates and others at the lower rates.

The budget submitted by Coyote includes a line item for the debt service cost necessary to repay the note signed for purchase of the system from Reamy.  The purchase price of $22,000 included all physical assets of the water system but did not include any accounts payable or receivable on the books of Mr. Reamy.  Staff’s analysis of the Reamy system in 1994 resulted in a net value of $7,728 for the utility plant at December 31, 1994.  No additional improvements appear to have been made to the system since that time.  Net plant value should be less at year end 1996 by $766 due to additional depreciation for two years.  Mr. Davis  paid $5,000 down and signed a note payable to Mr. Reamy in the amount of $17,000.  The note bears interest at a rate of 10% per annum and is payable at $300 (principal and interest) per month until paid in full.  Staff calculates that this payment schedule should retire the note in a period of approximately six and one half years.

Coyote’s budget also includes depreciation at $700 per year.  This amount is nearly twice the annual amount calculated by the Staff in 1994 as shown in the attached report (Exhibit

No. 101).  The Coyote budget includes $5,400 for pumping power costs as compared to the Staff report amount of $3,500.

Staff requested and received from Coyote a schedule of electric bills for the years 1991 through January 1997 prepared by Kootenai Electric Cooperative, Inc.  Staff’s analysis of that electric bill schedule indicates that the 1994 year ($3,714.85) used by Staff in its initial report was the highest of the five years of data provided.  The next highest year in those records (1996) was nearly $1,000 lower than 1994.  Staff cannot explain nor justify the Company budget amount of $5,400 that exceeds the highest annual cost for the last six years by nearly $1,700.

As indicated in Staff’s initial report prepared in 1994, the Company’s records were totally inadequate.  With the change in ownership that occurred in late 1996, that problem has been exacerbated.  What records Mr. Reamy, the former owner of the system, had were not transferred to the new owner.  The current owner has not had possession of the system long enough to establish a financial track record of the water system operation.

Twice since January 1, 1997 Staff has been contacted by individuals who have indicated they were contemplating the purchase of this water system from Coyote Coeur d’Alene.  Mr. Davis has himself confirmed that the water system is for sale.

CUSTOMER RELATIONS

Since the sale of the water system to Coyote Coeur d’Alene Corporation on August 29, 1996, four Commission complaints have been filed.  The customer concerns include the new proposed increase in rates, disconnection policies and practices, and threatening collection policies.  The complainants continue to express their concerns regarding the lack of regulation of the Company’s rates, policies and practices.

The Company must adopt and comply with the Commission’s Utility Customer Relations Rules (UCRR) and Utility Customer Information Rules (UCIR).  These rules prescribe the terms and conditions under which customers receive service.  The utility is also required to file its rate schedules, line extension policies and general service provisions for Commission approval. Together, the rules and tariffs establish rights and responsibilities of both the Company and its customers.

PROPOSED RATES AND CHARGES

As discussed previously, on October 2, 1996 the customers were advised that new owners had purchased the utility and a proposed increase in rates would be effective January 1, 1997. Commission Order No. 26684 issued on November 14, 1996, directed the utility to file  an application for a Certificate of Convenience and Necessity and instructed the Company to make no change in present rates and charges without Commission prior approval.  Mr. Davis agreed to cooperate.  On January 24, 1997, Coyote Coeur d’Alene Corporation dba Happy Valley Water District submitted its current and proposed “tariff rates” (See Exhibit No. 102).  However, on February 1, 1997, the customers were mailed a billing showing a monthly service increase in rates from $32.50 to $42.50 as the base rate (See Exhibit No. 103).  Staff again reminded the utility to discontinue billing at the higher rate until permanent rates were approved by the Commission.  Staff recommends the Company be directed to refund by a credit adjustment to customers’ accounts, any fees paid that exceed the $32.00 basic rate or $.50/000.

DELINQUENT CHARGE AND INTEREST RATE

The Company is proposing to charge a fixed late fee of $20.00 for any payment postmarked after the 15th of the month.  The Company is also proposing an interest rate of one and one-half percent (1 ½ %) on the unpaid balance of a customer’s past due account.  Staff considers the late fees inappropriate and onerous.

Historically, the Commission has disallowed a fixed late payment charge because utilities are allowed to disconnect services for non-payment after adequate notice pursuant to UCRR 302.  Also, according to UCRR 313, a customer is allowed to request reasonable payment arrangements on the undisputed balance.  Payment is applied to the oldest balance owing and therefore interest and late payment charges are unnecessary if the customer keeps the payment arrangement.  If the payment arrangement is not met, the utility may terminate service for failure to abide by terms of the agreement after satisfactory notification.  Staff recommends the Company’s fixed late payment charge on customers’ delinquent billings be disallowed.

The Commission has allowed collection of interest on unpaid balances in excess of 30 days in particular circumstances.  The Commission approved a one percent (1%) interest fee on delinquent accounts for McGuire Estates Water Company, Picabo Livestock Company and Evergreen Water Company because of the inability to disconnect non-paying customers.  The customers were not metered and it was difficult, if not impossible, to disconnect non-paying customers.  Currently, the Coyote system is metered and individual disconnection is possible when necessary.  Staff recommends a utility standard of 1% per month (12% annual rate) interest rate be considered for past due balances over thirty (30) days.

SERVICE RECONNECTION CHARGE AND DEPOSIT REQUIREMENTS

The Company informed its customers on October 2, 1996, that a $100 reconnection charge would be assessed if the Company was forced to shut water service off to any account past due 75 days (See Exhibit No. 104).  However, the Company submitted its tariff rate for “hookup after disconnect” at $500.  The reconnection fees are excessive.

The reconnection fees assessed by other utilities under the jurisdiction of the Commission are not as oppressive as that proposed by the Company.  A more reasonable fee would be one sufficient to recover at least a portion of the costs of performing the service and high enough to deter customers from not paying without imposing a burden on low income customers.  Previously approved involuntary reconnection fees for other water utilities range from $10.00 to $28.00. Unless the Company can demonstrate that its costs to reconnect services are unusually high, Staff recommends the Company adopt a reconnection fee of $20.00.

For tariff schedule purposes a rate distinction may be made between a voluntary and involuntary disconnection.  Voluntarily disconnected customers include those customers requesting seasonal disconnection and reconnection.  A customer should not, in any instance, be charged for disconnection of service.

The Company is requesting a $300 deposit, accompanied by a statement that reads “It May Be My Option to Sell Water after Disconnect.”  This policy is not in compliance with UCRR 101 through 109.  The Company is obligated to provide service within its certificated area as long as the customer has paid the bill.  The Commission rules are specific regarding deposit requirements and the amount that is acceptable.  Pursuant to UCRR 106, the Company must provide for the payment of interest on customer deposits.  Interest will be payable on all deposited amounts at the rate provided in UCRR 106.02.  Staff recommends the deposit be established at one-sixth the amount of the customer’s estimated billing for one year at rates currently in effect.

As prescribed in UCRR 701, the utility must make available to its customers a summary of the Commission’s rules and regulations and the Company’s general service provisions.  The summary must be provided to customers at least once each year and presented to each new customer upon commencement of service.  Also, an explanation of the existing rate schedule for services must be provided annually to the customers pursuant to the Utility Customer Information Rule (UCFI) No. 101.

If the utility intends to terminate a customer’s service for non-payment, the utility must give the customer prior notice.  A written notice of termination must be mailed at least seven (7) calendar days before the proposed date of termination.  At least twenty-four (24) hours before actual termination, the utility must make one more attempt to contact a customer to advise of the pending action and explain the steps to take to avoid or delay termination.  The requirements for notice for termination of service are listed in UCRR 304.  Consumer Staff will be available to assist in developing the necessary notifications.

ENGINEERING

Coyote’s Happy Valley water system is a small operation currently serving 25 customers.  The main distribution line is 4-inch plastic pipe with four taps of 2-inch plastic pipe.  The well has a submersible pump rated 25 hp, 150 gallons per minute (gpm) and is set at 275 feet below ground level.  Staff estimates the peak customer demand with some reservations.  If each of the 25 customers has a yard and garden, the peak demand should be about 4 gpm per customer for a total demand on the well pump of 100 gpm which means that the pump capacity is quite adequate.  However, it should be noted that each customer owns a relatively large acreage (five to ten acres per home) and if some decide to pursue agriculture and require large amounts of water for irrigation, the well capacity might become inadequate.  The Commission has received no pressure complaints which is further evidence that current summer water demand has not overburdened the well capacity.  Nevertheless, Staff recommends that the area to be certificated in this case should be limited to the development currently being served.

The Applicant requests approval of a $1,000 hookup fee.  Staff recommends that the hookup fee represent the cost of installing a new meter and should be set at $500 per new meter installation.

WATER RATES

The water meters have not been read frequently enough to be used in the calculation of rates.  However, the Applicant provided the annual water consumption for all but two customers for 1996 and provided the monthly energy used by the well pump during 1996.  To estimate monthly water consumption for each customer, the customer’s annual water usage was spread to each month according to the percent of well pump energy used that month.  The two unmetered customers were assigned a monthly usage which was the average amount of water estimated for  the other 23 customers for that month.

The rates charged by Coyote prior to January 1, 1997 were: $32.50 minimum for 20,000 gallons and $0.50/1,000 gallons above the 20,000 gallon minimum.  When these rates are applied to the estimated monthly usage for 25 customers, they produce an annual  revenue of $13,500.

The Applicant has proposed to increase rates to:  $42.50 for 20,000 gallons and $0.75/1,000 gallons above the 20,000 gallon minimum.  This proposed rate, when applied to the estimated usage for 25 customers produces an annual revenue of $18,400 or about 36% above the prior rates.  This annual revenue appears to Staff to be unreasonable because a Commission audit several years ago estimated a revenue requirement of $11,500 when the water system was

under different ownership.

Staff proposes that a revenue requirement be approved at $13,500 until an audit can be done in about twelve months when a year of monthly meter readings will be available for each customer and twelve months of operation and maintenance expense records will be available.  This recommendation is made for the following reasons:

1.No operation and maintenance records are available for 1996 when the water system was operated by the previous owner.

2.The monthly meter records for 1996 are too few to allow a customer-usage evaluation and normal rate design calculation.

Staff further proposes that, while maintaining the estimated $13,500 annual revenue, the rate design should be changed.  The current monthly minimum of $32.50 returns 72% of the annual revenue which has the effect of loading cost recovery too much toward low usage customers and not enough toward high usage customers.  Therefore Staff recommends a rate that recovers about half of the annual revenue from the monthly minimum and half from the commodity rate, and proposes the following:  $27.00 for the first 20,000 gallons and $0.70/1,000 gallons above 20,000 gallons.

Exhibit No. 105 shows a comparison of Coyote monthly water bills under different rate proposals with other regulated water companies.

SUMMARY

Given the absence of hard financial records, the recent change in ownership and the apparent imminent sale of the system a second time, Staff believes the Commission should take immediate jurisdiction of the system, establish rates and issue a Certificate of Public Convenience and Necessity limited to the area currently being served.  Staff further recommends that the Commission order refunds to customers who have been charged more than the $32.50 per month base rate and $.50 per thousand gallons for consumption in excess of 20,000 gallons per month that were in effect at the time the Commission directed the Company not to increase rates without prior Commission approval.

This company is operating as a public utility as defined in Title 61, Idaho Code.  The legal description for the Certificate of Public Convenience and Necessity should be “The South ½ of Section 17, Township 51 North, Range 1 West, Boise Meridian.”

Rates should be established at a base rate (including 20,000 gallons of water per month) of $27 per month plus $.70 per thousand gallons in excess of 20,000 gallons per month.

A new customer hookup fee should be set at $500 to cover the cost of a complete meter installation.

No disconnection charges should be approved.  Reconnection charges should be set at $20.  Deposits required of involuntarily disconnected customers should be established at one sixth of the customer’s estimated annual bill based upon the most recent twelve-month period or portion thereof if the customer has not been on the system for a full twelve-month period.

Mr. Davis should be directed to maintain adequate financial and customer records for the purpose of reviewing the reasonableness of the rates of the system in 1998 based upon 1997 operations.  He should also be specifically directed to inform any potential buyers of this system that it has been determined to be a public utility and is under the regulatory jurisdiction of the Commission.

Staff recommends the Company submit its General Rules and Regulations and tariff schedules for water rates, non-recurring charges, including hook-up fee, reconnection fee, and interest rate to the Commission for approval.

Staff recommends that the Company be authorized to charge an interest rate of one percent (1%) per month (12% annual rate) on past due account balances of thirty (30) days or more.

Respectfully Submitted,

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Robert E. Smith, Auditor

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Donald Oliason, Engineer

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Rose Schulte, Compliance Investigator

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STAFF REPORT

COYOTE COEUR D’ ALENE CORPORATION

DBA

HAPPY VALLEY WATER

GNR-W-96-3

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SENIOR AUDITOR

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UTILITIES COMPLIANCE INVESTIGATOR

April 18, 1997

Mr. L.W. (Zeke) Davis

Coyote Coeur d’Alene Inc.

dba Happy Valley Water Co.

1422 Government Way,

Coeur d’Alene, ID 83814

Dear Zeke,

Enclosed is the Idaho Public Utilities Commission Staff Report of our analysis of the Happy Valley Water system.  This report has not yet been filed officially with the Commission.  It will not be filed until you have had an opportunity to respond with your comments on the report.

Please read this report carefully and submit any comments you have to us in writing no later than May 2, 1997.  We will carefully consider your comments and make any changes to the report we deem appropriate based upon your comments.  The report will then be filed with the Commission for their consideration and action.  Your comments will accompany the report when it is submitted.

If you have any questions, I can be reached at (208) 334-0336.

Sincerely,

Robert E. Smith

Auditor

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