

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF KOOTENAI HEIGHTS WATER) CASE NO. KHW-W-05-01
SYSTEM, INC. FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY) ORDER NO. 30122
_____)**

On August 22, 2005, Kootenai Heights Water System, Inc. (Kootenai Heights, Company) filed an Application for a Certificate of Public Convenience and Necessity with the Idaho Public Utilities Commission (Commission). On September 30, 2005, the Commission issued a Notice of Application and Modified Procedure establishing a deadline for written comments of November 10, 2005. Order No. 29877. On November 1, 2005, the parties executed a Stipulation asking the Commission to suspend the written comment deadline so that alternative organizational structures for the Company could be explored. The Commission suspended the comment deadline, and directed the parties to report back to the Commission in 60 days. Order No. 29909.

On January 20, 2006, Commission Staff reported that the Company wished to proceed with its original application. The Commission issued a Second Notice of Application and Modified Procedure, setting a comment/protest deadline of March 9, 2006. Order No. 29960. Commission Staff conducted a review of the Company's Application and financial information. Staff also conducted an on-site inspection of the system, and was the only party to file comments. Staff recommended the Company be granted a Certificate of Public Convenience and Necessity. Staff also made several recommendations pertaining to the Company's rates, billing, charges, and customer rules.

With this Order the Commission issues a Certificate of Public Convenience and Necessity to Kootenai Heights Water. Additionally, the Commission issues a Proposed Order regarding the establishment of just and reasonable rates, charges, customer rules, and regulations.

THE COMPANY'S APPLICATION

The Company submitted various supplemental documents with its Application including: a map of the proposed service area, a Water Service Agreement and Easement form, documents evidencing the incorporation of the Company, a copy of the contract with its Certified Operator, a copy of a Clarification-Modification of the Plat for Kootenai Heights, and a letter

from the Department of Environmental Quality (DEQ) evidencing conditional approval of the as-built plans.

At the time of the Application the water system was in-service with six residential customers connected to the system. Application at 2. The Company states that the system will ultimately serve 11 residential customers. *Id.* The requested service area for the water system consists of Lots 7-18 of Kootenai Heights, with the well located on Lot 10. Application at 1. The Company states that the cost to construct the system was \$83,500 including the value of Lot 10. Application at 2. The average monthly consumption for the entire system was reported as 31,000 gallons, and the Company states that billing was to start on October 1, 2005. *Id.* The Application states that proposed rates and charges, rules and forms are all contained within the Water Service Agreement submitted with the Application. *Id.*

The Water Service Agreement and Easement (WSA) states that the system was developed to provide water “to certain Lots in Kootenai Heights and for further development of additional land and lots in the sole discretion of the Water Provider.” WSA at 1. The WSA further provides that each lot shall pay a hook-up fee of \$5,000, and that rates will be \$40 per month up to 10,000 gallons, and \$4 per thousand gallons used over 10,000 gallons per month. WSA at 2. Each customer will be metered, with the cost of the meter and its installation paid by the Company. *Id.* The Agreement states that monthly rates will not be increased for the first five years. WSA at 2-3. Additionally, the Agreement states that monthly bills will not be sent, and the lot owner shall pay the monthly fee on the 1st day of each month. WSA at 3. Billings will be sent to customers twice a year, on or about May 1 and October 1, for the purpose of computing and billing any excess water usage over the allowed 10,000 gallons per month. WSA at 3-4.

FINDINGS OF FACT

Kootenai Heights Water System consists of 11 residential lots with one lot used for a well site and pump house. Floyd and Mickie McGhee are the developers of the property and the officers and shareholders of Kootenai Heights Water System. The adjacent area is provided with water service from the City of Kootenai, Idaho, which currently has a moratorium on allowing water users located outside of its established boundaries from connecting to the city’s water system. There are no other domestic water suppliers close enough to provide water to the area. The McGhees own additional property adjacent to the proposed service area, and plan to develop this property in the future. Although not a part of this Application, if this property is developed,

the McGhees would consider combining the water systems of the anticipated development with this system.

The system consists of one four-inch, five horsepower well pump, with an eight-inch casing, pumping from a depth of approximately 200 feet. There are three 100-gallon hydro-pneumatic tanks to maintain pressure in the system. All equipment is located on the well lot (Lot #10). There is no other water storage in this system. Individual water meters have been installed for each customer. We find that the well capacity, as shown from well records and pump data, as well as the three pneumatic storage tanks will be sufficient to serve the present customer base. The Company has hired a certified operator to manage the water company and appears to have the financial ability to maintain adequate service.

The Department of Environmental Quality (DEQ) approved the existing system in January 2005, contingent upon full compliance with five items set out in the approval letter. As of the time that Staff filed its comments, a DEQ engineer had advised that all but one of the five requirements had been met, and the remaining requirement would require several more months of testing to determine compliance. Additionally, the Panhandle Health District reviewed and inspected the system in February 2005. The system was found to be in substantial compliance with IDAPA 58.01.08, and nine required improvements, and two suggested improvements, were communicated to the Company's certified operator.

We find it appropriate and necessary to issue a Certificate of Public Convenience and Necessity to Kootenai Heights Water System, Inc. The Company has existed since approximately January 2005, and has been offering water service to the public since at least August 2005. Kootenai Heights has filed a map of the system and a legal description of its requested service area. It does not appear that there are any other water companies, cooperatives, or municipalities that are willing and/or capable of providing water service to its customers. The Company meets the two-part test of *Idaho Code* § 61-129 of selling water service to the public for compensation within the State of Idaho. There is a need for water service and Commission Staff recommended that it be granted a Certificate of Public Convenience and Necessity.

We find that Kootenai Heights Water System, Inc. is operating as a public utility pursuant to *Idaho Code* §§ 61-124, 61-125, 61-129, and should be granted a Certificate of Public Convenience and Necessity pursuant to *Idaho Code* § 61-526.

Kootenai Heights did not file a proposed tariff with its Application, nor has it submitted copies of its proposed bill statements, disconnection notices, or other documents necessary to conduct its day-to-day business. The Company has not supplied any cost data or support for its proposed rates, charges, rules, and regulations in the record for this case. The Company did not provide evidence that it had notified its customers of its Application to the Commission. The Commission has received no public comments. To ensure notice and opportunity to comment to both the Company and to the customers, the Commission will issue a Proposed Order regarding the establishment of initial rates, charges, rules, and regulations that are just and reasonable. IDAPA 31.01.01.312.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

Kootenai Heights Water System, Inc. is a water corporation providing water service to the public within the State of Idaho, *Idaho Code* §§ 61-124, 61-125, and is operating as a public utility. *Idaho Code* § 61-129.

The Commission has jurisdiction over Kootenai Heights Water System, Inc. and this matter as authorized by Title 61 of the Idaho Code, and more particularly *Idaho Code* §§ 61-501, 61-502, 61-503, 61-520, and 61-523.

The Commission should authorize and approve just and reasonable initial rates, charges, customer rules, and regulations regarding the provision of water service by Kootenai Heights Water System, Inc. to its customers. *Idaho Code* §§ 61-301, 61-302, 61-303, 61-502, 61-503, and 61-623.

ORDER

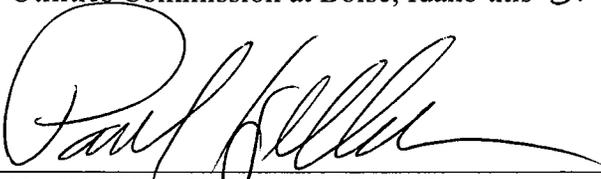
IT IS HEREBY ORDERED that Kootenai Heights Water System, Inc. is granted a Certificate of Public Convenience and Necessity.

IT IS FURTHER ORDERED that a separate Proposed Order regarding just and reasonable rates, charges, rules, and regulations shall be issued. The Commission Secretary shall mail a copy of this Order, as well as the Proposed Order, to the Company and to each of its customers. A 21-day comment period regarding the Proposed Order will commence on the service date of the Notice of Proposed Order pursuant to the Commission's Procedural Rule 312. IDAPA 31.01.01.312.

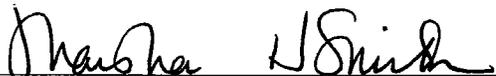
THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any

matter decided in 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 31st day of August 2006.



PAUL KJELLANDER, PRESIDENT

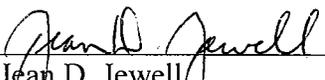


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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