

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) **NOTICE OF**
) **PROPOSED ORDER**
)

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). The Commission ordered that the Application be processed by Modified Procedure. Order Nos. 29877 and 29960. Commission Staff was the only party to file comments. On August 31, 2006, the Commission issued Kootenai Heights a Certificate of Public Convenience and Necessity. Order No. 30122. The Commission also ordered that a Proposed Order regarding just and reasonable rates, charges, rules, and regulations be issued for comment. *Id.*

NOTICE OF PROPOSED ORDER

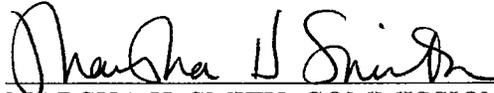
YOU ARE HEREBY NOTIFIED that Procedural Rule 312 allows the Commission to issue a Proposed Order in any proceeding. IDAPA 31.01.01.312. Pursuant to Rule 312, the Commission is issuing the attached Proposed Order for comment. The parties may file comments or exceptions to the Proposed Order within 21 days of the service date of this Notice. In addition, the parties may file replies to the other parties' comments or exceptions no later than seven days after service of the initial comments or exceptions.

YOU ARE FURTHER NOTIFIED that the Commission may adopt or revise a Proposed Order in response to the filed comments and issue a Final Order accordingly. The Proposed Order is not an Order of the Commission unless it is later adopted by an Order.

Dated at Boise, Idaho this 31st day of August 2006.



PAUL KJELLÄNDER, PRESIDENT



MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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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). The Commission ordered that the Application be processed by Modified Procedure. Order Nos. 29877 and 29960. Commission Staff was the only party to file comments. On August 31, 2006, the Commission issued Kootenai Heights a Certificate of Public Convenience and Necessity. Order No. 30122.

With this Order the Commission establishes just and reasonable rates, charges, rules, and regulations for the Company. *Idaho Code* §§ 61-301, 61-302, 61-303, 61-502, 61-503, and 61-623.

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 \$4.00 per 1,000 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

I. Rate Base

Based upon our review of the financial records and the historical relationship between the developer and the water company, we find that the Company is not entitled to recognize any rate base in the establishment of rates for two reasons. First, Commission Rule 103 for small water companies (IDAPA 31.36.01.103) establishes a presumption that capital invested in the water system by the developer is considered contributed capital and is excluded from rate base. Rule 103 states:

In issuing certificates for a small water company or in setting rates for a small water company, it will be presumed that the capital investment in plant associated with the system is contributed capital, i.e., that this capital investment will be excluded from rate base.

Second, the Company has received contributions in the nature of hook-up charges in the amount of \$55,000. The Company has indicated in the documentation filed with the Application that it incurred the following costs to develop the water system:

Well Installation	\$ 11,370
Distribution Lines	\$ 8,915
Well House	\$ 6,000
Pump, Pressure, Electrical	\$ 16,910
Engineering	\$ 1,800
Attorney Fees	<u>\$ 3,500</u>
Total	\$ 48,495

Additionally, the Company is claiming the current fair market value of the well lot at \$40,000. We find that the \$55,000 hook-up fee contribution is an offset to the cost of the system. (\$48,495 plus any allocation of original cost for the well lot.) The well lot is approximately 1/5 of an acre (9,130 sq. ft.), and it is very unlikely that the original cost of this parcel is more than the difference between the contributed hook-up fees and the cost of the water system (\$55,000 less \$48,495 or \$6,505). Regardless of the cost, we find that the well lot is considered contributed capital under Rule 103.

We find that the hook-up fees should be reflected as an offset to the plant-in-service account. Until new plant is added subsequent to and independent of owner development, plant-in-service and hook-up fees will continue to offset each other such that there will be no rate base or depreciation expense to increase rates. We caution the Company that it is important to correctly set these accounts up now so system capital costs can be properly reflected in future rates. We direct Staff to assist the Company to set these accounts up properly, and to properly book any future expansion if requested by the Company. To the extent the Company wants to continue collecting a hook-up fee, it should include this charge in its tariff.

Attachment A, Section A to Staff Comments reflects proposed plant-in-service accounts, reasonable depreciable lives and the annual depreciation. These items are offset by the hook-up fees recorded as Contributions in Aid of Construction and the presumption that water system capital is contributed by the owner/developer through the sale of lots. The amortization of these contributions is shown in Section B. We hereby adopt Attachment A, Sections A and B to Staff Comments.

Commission Findings: We find that the Company is not entitled to recognize any rate base in the establishment of rates. The capital investment in plant associated with the water system is contributed capital, and this capital investment will be excluded from rate base. IDAPA 31.36.01103. Additionally, we find that the \$55,000 hook-up fee contribution is an offset to the cost of the system, and should be reflected as an offset to the plant-in-service account.

II. Annual Expenses/Revenue Requirement

Because there is no rate base, we find that a just and reasonable rate should be based upon the Company's annual operating expenses. There is no history in the record of actual annual operating, maintenance, or administrative expenses, therefore we find it prudent and

reasonable to rely upon the estimates of the Company's certified operator regarding the annual expenses for the operation and maintenance of the system.

Based on the certified operator's estimates, Staff prepared a pro forma schedule of annual expenses that the Company could reasonably incur in the operation of the water company. Those estimates are included in the Schedule of Annual Expenses and attached as Attachment B to Staff Comments. We hereby adopt Attachment B to Staff Comments, attached as Appendix A to this Order. Staff proposes to audit the Company's records for the two years ending December 31, 2007, in order to update the estimated annual operating, maintenance, or administrative expenses based on actual expenses, revenues, and any additional investments subject to recovery through rates. Because there is no rate base, no annual depreciation expense is included in the revenue requirement.

Commission Findings: We find the calculation of the Company's annual expenses and revenue requirement prepared by Commission Staff to be reasonable. We find it reasonable to rely on estimates from the Company's certified operator for annual expenses. As discussed earlier, all water system investment is recovered through the sale of lots and through hook-up fees. We find the total estimated annual expenses for operation, maintenance, and administrative functions to total \$3,820. We find taxes including property, federal, and state to be approximately \$1,310 per year. Therefore, we find that the total annual expense of \$5,160 should be set as the Company's annual revenue requirement.

III. Rates

The Company proposes in its Application a monthly rate of \$40 per month plus \$4.00 per 1,000 gallons for usage over 10,000 gallons. If every customer used no more than the allowed 10,000 gallons each month, the annual revenue generated by the Company at this rate would be \$5,280, which exceeds the annual revenue requirement.

When the Company's proposed rates are compared to those of nearby municipal and private water systems, the proposed rates seem somewhat high. The most recent rate set by the Commission in the area was for Bitterroot Water, located just south of Athol, Idaho (25 miles south of Sandpoint). The rates approved for Bitterroot are a minimum charge of \$21 per month and a commodity charge of \$1.73 for every 1,000 gallons over 15,000 in a month. The size of the lots in Kootenai Heights is smaller than those in Bitterroot, and thus average usage is assumed to be lower for Kootenai. The City of Sandpoint Municipal Water Utility, which is near

the Company's proposed service area, established the following rates as of July 2004 for residential use with a 3/4 inch connection: fixed monthly charge of \$7.00; volume charge for every 1,000 gallons, with the first 6,000 gallons at \$1.45; 6,001-50,000 gallons at \$1.70; and over 50,000 gallons at \$1.95 per gallon. The Sandpoint tariff structure is much more progressive and has higher commodity charges than have been set for other regulated water utilities in north Idaho. The communities of Sandpoint, Ponderay, and Kootenai have tariff structures where 6,000 gallons is a minimum usage billing point. We find that a minimum charge allowance of 6,000 gallons per month, rather than the 10,000 proposed by the Company, is appropriate.

After consideration of the nearby water company rates and the Company's revenue requirement, we find the following rates to be just and reasonable:

Fixed Monthly Charge	\$25.00
Volume Charge for every 1,000 gallons Over 6,000 in a month	\$ 1.90

These rates when applied as described in Staff Comments result in annual revenue of \$5,181, or \$21 more than the proposed required revenue. The Company has installed individual meters. The annual revenue requirement includes expenses related to monthly meter reading. Monthly billing provides a good price signal to customers with regard to usage as well as monthly cash flow for the Company.

Commission Findings: We find that given the particular characteristics of this water system, including the geographic location, the number of customers and size of lots, the installation of individual meters, as well as the rate structures of several surrounding water systems that a just and reasonable initial rate structure for Kootenai Heights Water System, Inc. is a fixed monthly charge of \$25 per month, with a volume charge of \$1.90 for every 1,000 gallons over 6,000 gallons in a month. We find that the Company shall read meters and bill customers on a monthly basis. This will provide a price and usage signal to customers as well as a monthly cash flow for the Company.

IV. Customer Relations/Tariff Issues

According to the Company's Application, purchasers of lots served by Kootenai Heights Water System signed a contract entitled "Kootenai Heights Water Service Agreement and Easement" (WSA) that includes a number of provisions regarding operation of the water company that are covered by or are in conflict with the Commission's Utility Customer Relations

Rules and Utility Customer Information Rules. Provisions in the Company's tariff, which is filed with the Commission, must comply with our rules, the WSA notwithstanding. The Company and its customers cannot contract away the regulatory requirements of the Commission.

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 did not provide evidence that it had notified its customers of its Application to the Commission. The Commission has received no public comments.

The Company's tariff should specify water rates, recurring and non-recurring charges, and the terms and conditions of providing service. Paragraphs 3, 4, and 5 of the Company's WSA conflict with the Commission's Utility Customer Relations Rules and/or address issues that are required to be in the Company's filed tariff. The Commission's Utility Customer Relations Rules (IDAPA 31.21.01.000 *et seq.*) govern the collection of deposits, billing, disconnection of service, payment arrangements, and dispute resolution. Both the Utility Customer Relations Rules and the Utility Customer Information Rules (IDAPA 31.21.02.000 *et seq.*) govern the provision of information to customers.

Rule 201 of the Commission's Utility Customer Relations Rules (UCRR) requires that customers be billed at regular intervals. Rule 202, UCRR, requires a longer interval between billing and payment than proposed by the Company before late fees/charges are assessed. The minimum specified period is 15 days, or 12 days after bills are mailed or delivered, if bills are mailed or delivered more than 3 days after the billing date. Monthly billing of customers is the predominate billing interval used by regulated utilities in Idaho. It is also the best way to give customers immediate feedback on how much water they used and how much it cost.

We find the \$50 reconnection fee proposed by the Company to be unsupported by any cost data, and to be excessive. We approve a \$25 reconnection fee that will apply regardless of the time of day or day of week that service is reconnected. This fee is high enough to discourage customers from not paying their bills and to compensate the Company for costs associated with reconnection.

We find the \$10 late payment fee proposed by the Company to be arbitrary and unsupported by any cost data in the record. Additionally, unlike regulated energy utilities,

regulated water utilities are not prohibited from disconnecting customers at certain times of the year for non-payment. We note that the Company, with an individually metered system, small service area, and small number of customers, has readily available access to disconnect non-paying customers, as long as disconnections are conducted according to the Commission's Rules. We find a late fee of 1% per month on any past due balance carried over from the prior month's bill to be just and reasonable.

Commission Findings: We find that certain portions of the Company's Water Service Agreement that it has executed with its customers either conflict with or address issues governed by the Commission's Utility Customer Relations Rules and Customer Information Rules. IDAPA 31.21.01.000 *et seq.*, IDAPA 31.21.02.000 *et seq.* It is reasonable to require the Company to adopt and implement the Commission's Utility Customer Relations and Customer Information Rules, as well as an accounting system consistent with the information required by the Commission's annual report for small water companies. A model tariff for small water companies is available, and Staff is directed to provide examples of documents and guidance to the Company upon request.

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 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 has the power and authority to establish initial rates, charges, classifications, practices, rules, and regulations that it finds to be just and reasonable. *Idaho Code* § 61-623.

ORDER

IT IS HEREBY ORDERED that Kootenai Heights Water System, Inc. is not entitled to recognize any rate base in the establishment of rates. The capital investment in plant associated with the water system is contributed capital, and this capital investment will be excluded from rate base. IDAPA 31.36.01.103. The \$55,000 hook-up fee contribution is an offset to the cost of the system, and shall be reflected as an offset to the plant-in-service account.

IT IS FURTHER ORDERED that the Company's total annual expense of \$5,160 be set as the Company's annual revenue requirement.

IT IS FURTHER ORDERED that the Company shall read meters and bill customers on a monthly basis.

IT IS FURTHER ORDERED that the Company is directed to adopt and submit a tariff containing the following rates and charges: a fixed monthly charge of \$25 and a volume charge of \$1.90 for every 1,000 gallons over 6,000 gallons per month; a \$25 reconnection fee; a late payment charge of 1% per month on any past due balance; and a \$5,000 hook-up fee, should the Company wish to continue assessing that hook-up fee for any additions to the system.

IT IS FURTHER ORDERED that the Company is required to adopt and implement the Commission's Utility Customer Relations Rules (IDAPA 31.21.01.000 *et seq.*), the Commission's Customer Information Rules (IDAPA 31.21.02.000 *et seq.*), and an accounting system consistent with the information required by the Commission's annual report for small water companies. *Idaho Code* § 61-405.

IT IS FURTHER ORDERED that the Company shall submit tariffs conforming to this Order, as well as a sample bill and disconnection notice, no later than 30 days after the service date of this Order.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by 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
day of September 2006.

PAUL KJELLANDER, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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KOOTENAI HEIGHTS WATER COMPANY		
Pro-Forma Revenue Requirement		
		Pro Forma
		Annual Est.
Revenues		
Metered Sales		5,280
Expenses		
Operation Expenses		
Purchased Power		600
Supplies & Expenses		100
Water Testing		350
Other		
Total Operation Expense		1,050
Maintenance Expenses		
Maintenance of Well Lot		300
Repairs of Water Plant		200
Other		
Total Maintenance Expense		500
Customer Accounts Expense		
Meter Reading Labor		100
Accounting and Collecting Labor		300
Other		
Total Customer Accounts Expense		400
Administrative & General Expenses		
Administrative & General Salaries		600
Office Supplies & Other Expenses		200
Outside Services Employed		
Certified Operator		600
Property Insurance		250
Regulatory Commission Expenses		150
Miscellaneous General Expenses		100
Total Administrative & General Expenses		1,900
Total Operating, Maintenance and Administrative Expenses		3,850
Taxes		
Property Taxes		1200
Income Taxes		
State of Idaho		50
Federal		60
Total Taxes		1310
Total Annual Expenses		5,160
NET INCOME (LOSS)		120