Office of the Secretary
Service Date
August 30, 2007

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF MORNING VIEW WATER COMPANY INC. FOR AUTHORITY TO INCREASE ITS RATES AND CHARGES FOR WATER SERVICE IN THE STATE OF IDAHO	)))))	**CASE NO. MNV-W-06-01** **ORDER NO. 30420**

On December 8, 2006, Nolan Gneiting, president of Morning View Water Company, Inc. (Morning View; Company) filed a letter with the Commission requesting a 40% increase in rates. The Company stated an increase was necessary to pay for back payroll taxes, property taxes, increased costs of operation and back wages. The Company issued a notice to its customers with its March 2007 bills notifying them that it was seeking a 35% increase to meet its continued operation needs (i.e., increased cost of power, taxes, salaries, repairs, maintenance, general operation costs, and to recover the depleted contingency fund). Current authorized tariff rates for Morning View utilize a flat rate design based on lot size, i.e., one quarter acre $22.00 per month; one half acre $28.85 per month; one acre $35.75 per month. Customers also pay a $5.00 per month surcharge to fund a separate contingency reserve account (Order No. 29104 – capped at $10,000). Base rates have not been changed since September 1, 2002.

In this Order the Commission approves an annual revenue requirement for Morning View of $41,436 (a 24.59% increase) and a uniform percentage increase in commodity rates, i.e., one quarter acre $27.41 per month; one half acre $35.94 per month; one acre $44.48 per month. We authorize continuance of the contingency reserve account surcharge. The Commission also takes notice of the Company's problems with water pressure (Idaho Department of Environmental Quality) and water rights (Idaho Department of Water Resources) and establishes a moratorium on new connections pending the metering of the Company's customers and acquisition of sufficient water rights to serve existing customers and additional growth.

On March 15, 2007, the Commission suspended implementation of the Company's proposed rate increase (Order No. 30276), issued a notice of the Company's Application, and established a Modified Procedure comment deadline of June 13, 2007. On April 12, 2007, Commission Staff held a public workshop for Morning View customers providing an overview of the Company's rate case Application, dispensing information and answering questions.

Comments and recommendations were filed by Commission Staff and approximately two-thirds of the Company's customer base. On June 20, 2007, the Company filed a reply to Staff comments. On July 30, 2007, the Company filed a supplemental reply.

The Commission has reviewed and considered the filings of record in Case No. MNV-W-06-01 including the Company's initial filing, Staff's investigative report and recommendations, the Company's related reply and supplemental reply and customer comments. Based on additional information provided by the Company in its supplemental reply the Commission is informed that the areas of disagreement between Staff and Company have been significantly reduced. We resolve those differences in this Order. Based on the Commission's review of the record, we continue to find it reasonable to process the Company's rate filing pursuant to Modified Procedure, i.e., by written submission rather than by hearing. Reference Commission Rules of Procedure, IDAPA 31.01.01.201-204.

The comments and recommendations of Commission Staff and customers and the Company's initial and supplemental replies can be summarized as follows together with Commission discussion and findings:

The comments and recommendations of Commission Staff are based on a field audit conducted in April 2007 at the Company offices in Rigby, Idaho. Staff found the Company's financial records for the years 2002, 2003 and 2004 to be incomplete. Staff used the Company's financial records for 2005 and 2006 and its review of 2002 rate case data as the basis for determining the Company's history of revenues, expenses and rate base. In its comments Staff includes an analysis of the Company's results of operations, rate base, capital structure, depreciation, revenue requirement, rates and system design. Staff proposes use of 2006 as the test year and provides a schedule of pro forma adjustments.

As modified following the Company's supplemental reply and additional information provided therein, Staff recommends an annual revenue requirement increase of $7,929 (or 23.84%).

Two Staff adjustments to Company annual expense remain in contention.

> As reflected in the Company's supplemental reply, Staff eliminated a $500 payment for vehicle insurance paid by the water company for a vehicle owned by an affiliated company. The Company addresses this contention as follows:

> This is the only vehicle expense incurred by the water company. Staff's adjustment assumes that the water company has neither need for a vehicle nor any vehicle expenses. Staff is correct that the water company does not own any vehicles. However, it is inappropriate to assume there is no need. Numerous trips to deliver water samples to laboratories in Idaho Falls, pick up materials and supplies, make bank deposits, inspect the service area water lines, check wells and deliver notices to customers are required. The Company's insurance payment for an affiliate company's vehicle of only $500 is a small price to pay. At the federal mileage allowance of $.47/mile this translates to 1,064 miles per year. The Commission should reject this Staff adjustment and acknowledge that the Company cannot possibly function without incurring some transportation expenses.

We find it reasonable to authorize $250 in annual vehicle expense. In so doing, we note the absence of documentation to support the expense item. Payment of insurance is not the appropriate mechanism to reflect vehicle costs. The Commission in future rate cases expects the Company to maintain a mileage log and records if it expects to receive an acknowledgement of transportation expense.

The Company also contests the amount allowed by Staff for office space rent. As set forth in the Company's supplemental reply.

> The Staff addressed the Company's office space rent expense and recognized that the Company did not actually pay any rent during the 2006 test year. The Company's affiliate company has been subsidizing the water company in this regarding. To the Staff's credit it did proform a rent allowance back into its recommendations for the total revenue requirement. Staff allowed the rent expense included in the Company's 2002 rate case of $950 and stated "the rent circumstances and expenses of $950 included in the 2002 rate case has not changed . . ." circumstances certainly have changed. Real estate values and therefore rental values have escalated over a period of five years. Escalating the 2002 value of $950 for a period of 5 years at a very conservation compound rate of 3% per year would produce a rental value of $1,123. Escalating for an additional year (when new rates will be in effect) would produce a rental value of $1,156.

The Commission finds Staff's proposed rent allowance to be reasonable, in the absence of any actual expense incurred by the Company. A different rental amount cannot be reasonably established absent knowledge of the rental or ownership situation.

Morning View in its supplemental reply informs the Commission that the pump for the Company's backup well was installed and declared functional and in service as the Company's backup source of supply on July 20, 2007. The pump was installed pursuant to an Idaho Department of Environmental Quality (DEQ) letter dated July 6, 2007, giving ten days' notice to comply with Idaho rules for public drinking water systems. On Monday, July 23, 2007, an e-mail was sent to the DEQ informing them of the completion of the required improvements. Copies of the DEQ letter and Company e-mail are attached to the Company's reply.

The Company notes that it has incurred additional costs of $5,014 to comply with the DEQ requirements. An itemized schedule of costs incurred was provided. As represented by the Company, these expenditures were required for DEQ compliance, do not produce any additional revenues for the Company, have been completed within eight months of the end of the test year in this case and were not a known event at the time the Company's Application was filed. The Company requests given the emergency nature of these unanticipated costs that the Commission consider the effect on the Company in its deliberations in this case. Staff concurs with the Company's recommendation. The Commission agrees that this is a valid adjustment in this rate case.

In its supplemental reply Morning View also notes that the Company determined that it needed the assistance of an outside consultant to properly respond to Staff's comments. The Company did not seek outside assistance initially in this case due to cash flow constraints but now believes it needs such assistance. The Company requests that the Commission recognize the value of this assistance and allow the Company to amortize its costs for this case over a two-year period. Total costs are expected to be $1,000 and when amortized over two years would increase the Company's revenue requirement by $500. Staff recommends that the cost be amortized over five years. The Commission is informed that the Company agrees with this proposed amortization period. The Commission authorizes the expense and Staff proposed amortization.

The resultant rate base approved by the Commission in this case is $8,994. The depreciation expense on these assets is $869 annually. Using a 12% return on the rate base which we continue to find reasonable for a small water company and a tax gross-up of 1.27, the total revenue requirement increase is $8,179. The annual revenue requirement we approve is $41,436 (a 24.59% increase). The revenue requirement figure includes a rate basing of the

Company's recent investment in its backup well (connecting the pump, etc.) and an amortized allowance for rate case expense.

Contingency Reserve Account

Staff in its comments provides specific detail regarding the Company's contingency reserve account. As noted by Staff,

> The Company was authorized by the Commission in the 2002 Rate Case to charge each customer a surcharge of $5.00 per month to fund a contingency reserve account. In Order No. 29104, the Commission stated the following finding concerning this contingency reserve account:
>
> > The reserve account will assure the Company's ability to provide more reliable service by providing a fund for extraordinary and unforeseen major repairs and replacements. It may also be used for payment of the Company's outstanding bill of $4,213 for pump replacement. The surcharge is to be separately identified on billing statements. The surcharge revenue is to be deposited into a separate account. A surcharge report is to be filed with the Company's annual report providing detail of all surcharge funds collected and disbursed. The detail provided should also include a description and justification for all monies disbursed. The surcharge is subject to annual adjustment and reauthorization. The surcharge is to cease when the reserve account balance reaches $10,000 and may be reactivated with the Commission's approval when the account falls below $5,000."
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> The Company has been collecting the surcharge since January 2003. The Company does separately identify the surcharge on the billing statement. It has not filed any report or accounting on the funds collected or disbursed, except as requested as part of this audit. Staff found that the Company did maintain good records of the contingency fund account, and was able to audit the funds collected and disbursed. Since January 2003, the Company has collected and deposited $15,735 and the account has earned $10.02 in interest through May 31, 2007. The Company has spent $14,646.50, leaving a balance of $1,098.52 in the account as of May 31, 2007. The proceeds from the account were disbursed for the following purposes:

Capital Expenditures			
5/20/2003	Pump purchase	$ 1,357.10	
9/2/2003	Pulling pump from casing	$ 520.00	
1/19/2005	Soft start of pumps	$ 2,000.00	
7/12/2005	30 hp pump motor	$ 3,200.65	
6/13/2006	Pump end for 30 hp pump	$ 1,905.13	
		$ 8,982.88	$ 8,982.88
Loan Payments (See note below)			
	31 payments of $145.00	$ 4,495.00	
	1 payment of $157.50	$ 157.50	
	1 payment of $971.12	$ 971.12	

	\$ 5,623.62	\$ 5,623.62
Service Charges 8 service charges @ \$5.00 ea.	\$ 40.00	\$ 40.00
Total		\$14,646.50

- The Commission in the 2002 Rate Case approved the Company's payment of an outstanding obligation in the amount of \$4,213 for pump replacement. The Company borrowed the money from Wells Fargo Bank and paid the obligation in full. The Company then used the Contingency Account as the source of funds to repay the loan.

> It appears from the Company's records and bank statements that the surcharge collected was regularly deposited in the Company's bank account and then once a month a check from the Company account was deposited in the contingency fund's separate account. This occurred through May 2006. Since May 2006, the Company has not deposited any of the surcharges collected even though it continued to collect the \$5.00 per month per customer through this same period.
>
> Staff noted that when the Company was depositing the surcharge in the contingency fund account that the amount deposited monthly by the Company represents the surcharge collected from 83 to 91 customers. The Company now reports that it has 97 to 100 customers.
>
> The Company has not deposited the surcharge amounts collected from June 2006 through May 2007. If the Company had an average of 97 customers that amount is \$5,335 (97 customers x \$5 x 11 months).

As reflected above, the Commission in Order No. 29104 approved a \$5.00 per month customer surcharge to fund a contingency reserve account. Use of the fund was restricted to unusual, extraordinary, unforeseen major repairs and replacements. The Company was also authorized to use the fund to retire its outstanding bill of \$4,213 for pump replacement. The Company was required to file a report annually with the Commission providing detail of all funds collected and details of each specific major repair paid for with surcharge funds. Reports were not filed. Beginning in 2006, contingency fund monies appear to have been used for unauthorized expenses. Staff's audit reveals that the Company has been under-earning. The monies diverted from the contingency fund appear to have been used for other Company operating expenses. Despite the Company's failure to file reports and maintain proper documentation for the contingency reserve fund, we find the Company has not intentionally misappropriated or misused the reserve funds. We also find that the purpose of the reserve fund is of continued benefit to the Company and its customers. We expect the Company to replace monies not spent on authorized expenditures. We expect future adherence to the recordkeeping and reporting requirements and direct Commission Staff to more closely monitor same.

Metering

The Commission in Order No. 29104 (Case No. MNV-W-02-01) required the Company to submit an implementation plan for meter installation. Staff notes that the Company did not prepare a plan. The system is still unmetered. The Company's customers are experiencing low water pressure. Idaho DEQ on August 16, 2007, notified Morning View that it was not in compliance with minimum pressure requirements (40 psi). The Company's water system tests at 22 to 32 psi. The State's enforcement action will consist of a Notice of Violation (NOV) followed by a Consent Order between Morning View and IDEQ. The Consent Order will include a time schedule and plan to bring the water system back into compliance.

The Commission requires the Company to submit an implementation plan for meter installation (including time and estimated costs) within 30 days.

Water Rights

The Commission is also apprised that Morning View is serving more customers (97) than it has water rights to serve (54). The Company reports that it is working with the Idaho Department of Water Resources to acquire additional water. The Company indicates that it has a well (12-inch casing) sufficient to serve existing customers and provide for growth. The well is not connected and has no pump, equipment or housing. This is not part of the rate case and no cost estimates are available.

In light of the Company's water pressure (Idaho Department of Environmental Quality) and water rights challenges (Idaho Department of Water Resources) detailed above, the Commission finds it reasonable to establish a moratorium on new connections pending the metering of the Company's customers and acquisition of sufficient water rights to serve existing customers and additional growth.

Customer Comments

The Commission received a combination of letters, joint letters and petitions from approximately two-thirds of the Company's customer base. Customers expressed concern regarding inadequate water pressure, the repair and condition of the pumps and equipment, the slowness of repairs when there is a problem, the lack of notice when water is turned off during repairs, the presence of sand, mud and rust in the water – the resultant wear and damage to ice and water dispensers, water heaters and toilets, and the safety of the water supply – mice in the well. Customers also expressed concern regarding the Company's attitude towards its customers. Customers request a detailed accounting regarding the depleted contingency fund and believe that the Company should be held accountable.

Some of the concerns identified by customers are addressed above in this Order. Others will be remedied by metering. We encourage the Company to be more attentive to customer concerns. The Company is directed to provide advance notice of planned outages and to implement a system for advising customers about the status of repairs following unplanned outages.

A review of filed comments and information reveals that Morning View is out of compliance with prior Commission Orders reporting requirements and other state regulatory requirements. As we indicated in 2002, failure to file required reports is unacceptable and will no longer be overlooked. The reports provide the state agencies with a snapshot of utility operations, business health, and water quality. They also assist us in identifying potential problems before they become critical. We cannot properly perform our statutory duty and provide regulatory oversight without information from the Company. It is the Company's obligation to comply with Commission rules and regulations. *Idaho Code* § 61-406.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has authority and jurisdiction over the Morning View Water Company, Inc., a water utility, and the issues raised in Case No. MNV-W-06-01 pursuant to the 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 approve an annual revenue requirement for Morning View Water Company, Inc. of $41,436 and a flat rate design based on lot size (one quarter acre $27.41 per month; one half acre $35.94 per month; one acre $44.48 per month). The Commission also approves continuation of a $5.00 per month customer surcharge to continue funding of a contingency reserve account. The Company is directed to file tariff sheets consistent with this Order for an effective date of September 1, 2007.

IT IS FURTHER ORDERED and the Commission hereby establishes a moratorium on new connections pending the Company's metering of customers and acquisition of adequate water rights for its water system.

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. 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 30th day of August 2007.

Paul Kjellander

PAUL KJELLANDER, PRESIDENT

Marsha H. Smith

MARSHA H. SMITH, COMMISSIONER

Mack A. Redford

MACK A. REDFORD, COMMISSIONER

ATTEST:

Barbara Barrows

Barbara Barrows
Assistant Commission Secretary

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