

## DECISION MEMORANDUM

**TO: COMMISSIONER REDFORD  
COMMISSIONER SMITH  
COMMISSIONER KEMPTON  
COMMISSION SECRETARY  
COMMISSION STAFF**

**FROM: DON HOWELL AND KRISTINE SASSER  
DEPUTY ATTORNEYS GENERAL**

**DATE: FEBRUARY 26, 2008**

**SUBJECT: IDAHO SPRINGS WATER COMPANY'S APPLICATION FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, CASE  
NO. ISW-W-08-01**

On February 5, 2008, Idaho Springs Water Company filed an Application for a Certificate of Public Convenience and Necessity seeking authority to provide water service as a public utility in Kuna. Because the Company is already serving customers, it seeks authorization for interim rates and to begin the process of setting rates and charges. The Company also requests that its Application be processed by Modified Procedure pursuant to IDAPA 31.01.01.201 through .204.

### THE APPLICATION

Idaho Springs Water currently serves 38 residential customers, 17 lots for the construction of residential dwellings and 1 customer taking service to water common areas in and about the Arrowrock Subdivision in Kuna, Idaho.<sup>1</sup> The Company anticipates an additional 100 residential customers if the Arrowrock Subdivision is fully built and another 100 residential customers if the service territory is expanded.

The Application states that its proposed service area is not within the authorized territory of any other public utility water corporation under the jurisdiction of the Commission. Therefore, authorizing service to this area will not interfere with the operations of any other water utility corporation. The closest existing water system is located in Kuna City – approximately 2 ½ miles from the Arrowrock Subdivision.

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<sup>1</sup> The water system in the Arrowrock Subdivision has been completed and is currently operational.

The Company is still finalizing its analysis of what it believes will be just and reasonable charges for water service. Currently, the Company charges a flat fee of \$25.00 per month for lots upon which construction is occurring, \$50.00 per month for its residential customers, and \$800 per month for commercial customers watering common areas. The Company anticipates a proposal that contains a set monthly customer charge and an additional variable charge, based on monthly consumption.<sup>2</sup> The Company believes this will result in residential monthly charges between \$50-\$100 per customer. In the interim, the Company requests authorization to continue charging its current rates until such time as rates and charges are set by a final Order of the Commission.

The Company submitted various supplemental documents with its Application including: documents evidencing the incorporation of the Company, a map of the proposed service area, a letter from the Department of Environmental Quality (DEQ) evidencing approval of the as-built drawings, a list of customers, a description of rates and charges currently in use, and a copy of the notice that the Company has mailed to its customers regarding this Application. The Company has committed to filing additional information and attachments regarding (1) costs for construction of the water system and annual maintenance, (2) consumptive use, or (3) financial statements of the Company as required by IDAPA 31.01.01.111 (Rule 111).

A Second Amended Complaint for Declaratory and Injunctive Relief, Damages, and Demand for Jury Trial was filed in the Fourth Judicial District on October 31, 2007, by numerous homeowners of the Arrowrock Subdivision. The Complaint is based on the assertion that the company providing water services to the Arrowrock Subdivision does not have the appropriate authorization from the Commission and, thus, has been acting unlawfully by charging for water and water delivery. The allegations include, but are not limited to, multiple counts of breach of contract, fraud, breach of duty to disclose, and racketeering. The case is pending in district court.

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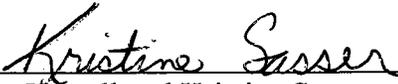
<sup>2</sup> A variable charge would require individual meters. The Company's Application does not address whether meters are already in place or whether there is an intent to install meters in the future.

### STAFF RECOMMENDATION

Staff recommends that the Commission issue a Notice of Application and set a deadline for intervention. Staff recommends that the Company's Application be processed by Modified Procedure. Staff recommends approval of the proposed interim rates, subject to refund. Several informal complaints and one formal have been filed with the Commission against the Company alleging that it has been operating without the proper authorization of the Commission. Staff recommends that these complaints be joined with this Application. Once the Commission Secretary issues a Notice of Parties, the parties could meet informally to establish a schedule for processing this case.

### COMMISSION DECISION

1. Does the Commission wish to issue a Notice of Application including a deadline for intervention?
2. Does the Commission find that the public interest may not require a hearing to consider the issues presented, and that this proceeding may be processed under Modified Procedure?
3. Does the Commission wish to authorize the Company to continue to charge its current/interim rates and charges, subject to refund, until such time as rates and charges are set by a final Order of the Commission?
4. Does the Commission wish to join the customer complaints against the Company with the processing of its Application?

  
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Don Howell and Kristine Sasser  
Deputy Attorneys General

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