

## DECISION MEMORANDUM

**TO:** COMMISSIONER KJELLANDER  
COMMISSIONER SMITH  
COMMISSIONER HANSEN  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL

**FROM:** LISA NORDSTROM PTE-W-03-01

**DATE:** MARCH 6, 2003

**RE:** NON-COMPLIANCE OF PONDEROSA TERRACE ESTATES WATER SYSTEM.

On August 8, 2002, the Commission authorized Ponderosa Terrace Estates Water System (Ponderosa) to collect monthly rates in the amount of \$48 for Full-Time and Part-Time customers and \$25 for Active Service customers<sup>1</sup> for service rendered on or after August 1, 2002. Order No. 29086. In its Order on Reconsideration the Commission directed Ponderosa and Commission Staff to submit a report detailing customer class inventory (membership) changes once the grace period expired on October 15, 2002, and the impact these changes may have on Ponderosa's revenues. Order No. 29123.

Staff's Report indicated that even though Ponderosa was under-collecting its revenue requirement, neither Staff nor Ponderosa recommended a change in rates at that time. Report at 2. Based on a number of inquiries received by the Commission, it was apparent that some confusion existed regarding the implementation of the Commission's Orders and the Company's treatment of seasonal disconnections. Because Staff and the Company did not agree on the treatment of seasonally disconnected customers, Staff requested clarification of Order No. 29086 in that regard so that it could properly advise customers and the Company. *Id.*

In response to these concerns about seasonal disconnection, the Commission in December 2002 clarified Order No. 29086 and authorized Ponderosa to involuntarily move a customer to the Inactive Service customer class if the customer remained disconnected from the system for longer than eight full months. Order No. 29172. If the customer later sought to

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<sup>1</sup> "Active Service" customers have service extended to the lot and have aboveground access to water.

resume service after the eight months had passed, the Commission directed Ponderosa to retain the following information to justify imposition of a \$2,500 hook-up fee: 1) its customer payment and disconnection records and 2) proof that notice of Ponderosa's intent to move the customer to Inactive Service and require a \$2,500 hook-up fee upon reconnection was sent via certified mail. *Id.*

#### **NON-COMPLIANCE WITH ORDER NO. 29172**

**Ponderosa Letter to Customers:** Several customers sent Staff a copy of a Company letter dated January 2, 2003. The letter (Attachment A) advised customers that the "Ponderosa Terrace Estates Water System Inc. is no longer going to be involved with the Idaho Public Utilities Commission." Mr. Robaer Cobott, Ponderosa's owner and author of the letter, noted that "since P.U.C. has been involved in my water system I have lost many customers" who have drilled wells or withdrawn from the system. He further informed customers that this had reduced Ponderosa's annual revenues by \$9,200 from the \$26,600 Commission-authorized revenue requirement. As a result of Order No. 29172 issued in December 2002, Ponderosa asserted that the Commission's decision to allow Part-Time and Active Service customers to pay for just a four-month minimum of water reduced the Company's revenue by \$6,400. Consequently, the Company's annual revenues are now less than \$10,000.

Mr. Cobott wrote, "this water system cannot operate under the current condition that P.U.C. is trying to impose" and that he is going to try to save the water company for those customers needing service. Effective January 1, 2002, Mr. Cobott informed customers that only two customer classes – Resident and Non-Resident – would exist, as he had "before the P.U.C. got involved." Under his plan, Residents (a customer "who lives on his property all year") pay \$48 per month and Non-Residents ("part-time use or no use at all") pay \$25 per month.

Although this rate structure is similar to the one approved by Commission Order No. 29086 August 2002, Mr. Cobott deviated from the Commission's seasonal disconnection directives in Order No. 29172. The letter threatened customers that "if you do not pay a monthly charge to help maintain this system then you will not be able to hookup to the system in the future." Thus, Non-Residents must pay a monthly charge of \$25 per lot to keep water service. Ponderosa allowed customers that are not currently making monthly water payments 30 days from the date of the letter to decide whether to be part of the system or "be withdrawn from any future use from this system."

Under these conditions, Mr. Cobott believes that the Company will still be operating \$10,000 under the Commission-authorized revenue requirement if every customer pays their bill. In closing, Mr. Cobott stated:

Last year P.U.C. caused me to lose \$20,000 and they don't care. P.U.C. lied to me, they told me that when their decision was made it was final. P.U.C. are the ones that said the operating cost per year had to be \$26,600. What gives them the right to destroy this company and put the landowner into a situation that might eliminate their water service.

**Staff Letter to Ponderosa:** After receiving calls from customers and a copy of the letter described above, Staff engineer Michael Fuss sent a letter (Attachment B) to Mr. Cobott on January 23, 2003. Although noting that some of the statements in the Company's January letter were contrary to the Commission's Order, Staff indicated that Ponderosa's rate alternative may have some merit given the Company's current financial situation. Staff requested Mr. Cobott's assistance in gathering specific information that Staff could use to file an updated report with the Commission. This report would examine the Company's financial status and determine if it had deteriorated since October. The report would also evaluate whether Ponderosa's rate proposal might improve the Company's financial status. Staff requested that Mr. Cobott provide the requested information no later than February 18, 2003. Although Staff emphasized that continued communication with the Commission was the best approach for Mr. Cobott and his customers, as of this date Mr. Cobott has not responded to Staff's letter and information request.

**Customer Bill:** In early February, Staff received a copy of a customer bill (Attachment C) in which Ponderosa charged a customer that had seasonally disconnected two Non-Resident lots last fall for water service rendered the month of January 2003. The customer paid Company employee Larry Fairfax \$50 "upfront" to shut off the valves to these lots several months ago. Because the customer was seasonally disconnected and did not request water service during the month of January, Staff alleges the amount charged was contrary to Order No. 29172. The customer told Staff that he intended to pay the bill but that if the billing was improper the Commission could return the payment to him.

#### **STAFF RECOMMENDATION**

Staff has attempted to work with Ponderosa to address the Company's concerns about the rates imposed in Order No. 29172 to no avail. The Company is non-responsive to Staff inquiries and customers are uncertain whether they should pay the amounts billed by Ponderosa

or the amounts authorized by Commission Order. Consequently, Staff alleges there is sufficient cause and recommends the Commission initiate an Order to Show Cause docket for Ponderosa Terrace Estates Water System under a new case number. Prior to holding an evidentiary hearing in Sandpoint, Staff recommends the Commission direct Staff to prefile testimony outlining Ponderosa's failure to comply with Commission Orders, to which the Company would be required to respond by a date certain prior to hearing. The Company's testimony should address: 1) why the Commission should not seek imposition of civil and/or criminal penalties for non-compliance with Commission Orders; 2) explain how the Commission's current rates are inadequate to recover Ponderosa's expenses; and 3) explain what rates Ponderosa believes should be implemented. Because Mr. Cobott has refused to sign for and accept notice by certified mail in the past, Staff recommends that Mr. Cobott be served with the Order to Show Cause by personal service.

If Ponderosa fails to appear at the hearing, Staff recommends that the Commission consider exercising the civil and criminal remedies available through the judicial system. This may include: 1) petitioning the 1<sup>st</sup> Judicial District for an injunction prohibiting Ponderosa from charging rates different than those ordered by the Commission; 2) requesting the Court place the Company in receivership; or 3) filing criminal misdemeanor charges under *Idaho Code* § 61-709 for failure to comply with a Commission Order.

#### COMMISSION DECISION

Does the Commission wish to adopt Staff's recommendation as described above to initiate an Order to Show Cause against Ponderosa? If not, how does the Commission wish to proceed?

  
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Lisa Nordstrom

M:Ponderosa OSC\_in

# P.T.E. WATER SYSTEM INC.

2628 Wyno Loop Road  
Sandpoint Idaho 83864

Telephone 208-263-2720

January 2, 2003

Dear Landowners

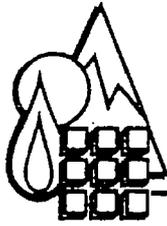
This letter is to serve notice to landowners that the Ponderosa Terrace Estates Water System Inc. is no longer going to be involved with the Idaho Public Utilities Commission. The P.U.C. has made me conform to all their demands including taking all my invoices on the operation of the water system to Boise so they could come up with a yearly operating cost to operate the water system. I disagreed with their finding so there was a formal hearing in June 2002 in Sandpoint Idaho to try and resolve the problems. Before the hearing the P.U.C. said that the operating expense was \$24,000 plus and after the hearing the expenses were determined to be \$26,000 plus. The P.U.C. put all landowners in different classes determined by their water hookup on their lot. This gave the P.U.C. the ability to charge the different landowner based on how they had classed them. The P.U.C. did this and I was told that to charge the different classes so that the revenue received would take care of the expenses. Since P.U.C. has been involved in my water system I have lost many customers. Some have put in their own well and others have just withdrawn from the systems. Did you know that if a landowner puts in a well and your lot is next to his that your lot will probably be considered worthless. This information I received from the Panhandle Health Dept. which states that a septic system can not be put in any closer than 100 feet in all directions. On October 30, 2002 Michael Fuss came up to the water system and took a customer class inventory and came up with over a \$6000.00 loss in revenue which reduced the annual revenue to less than \$20,000.00. Since October I have lost more customers which totals \$3200.00 in loss revenue. Then the P.U.C. changes their mind and states that all part time dwellings, and active service customers only have to pay for water payment 4-months of the year. This reduces the revenue another \$6400.00 a year. At this time the revenue to operate the system has been reduced to less than \$10,000.00 per year. Because of the above I have decided to handle this problem myself. There will be 2 classes of customers like I had before P.U.C. got involved. Resident and Non-Resident. Resident customers will be charged \$48.00 per month and Non-Resident customers will be charged \$25.00 per month. Resident is a customer that lives on his property all year. Non-Resident is part time use or no use at all. Non-Resident cannot be used for resident use. If you as landowners, resident or non-resident, do not pay a monthly charge to help maintain this system then you will not be able to hookup to the system in the future. It's not fair for a few to pay for all the upkeep and the rest can come and go as they please. This water system can not operate under the current condition that P.U.C. is trying to impose. I'm going to try to save this water company for all of you my customers that need this service. If you want to put in your own well please check first on all the different cost and what your monthly electric charge will be to operate the well. You will be surprised. Landowners that are not making monthly water payments at present have 30 days from the date of this letter to decide to be part on the system or not. If I don't here from you by letter or phone during this time period then you will be withdrawn from any future water use from this system.

ATTACHMENT A  
PAGE 1 of 2

There is one thing that everybody forgets about and that is I Robaer Cobott own this water system. I will make this system survive for you my customers and for myself. If everybody says I still will be operating \$10,000.00 a year under what the P.U.C. said I needed. I don't know if I can make this work but I'm going to try. Last year P.U.C. caused the water system to lose more than \$20,000.00 and they don't care. P.U.C. lied to me, they told me that when their decision was made it was final. P.U.C. are the ones that said that the operating cost per year had to be \$26,600.00. What gives them the right to destroy this company and put the landowner into a situation that might eliminate their water service. In order to keep water service to your lot or lots you are going to have to pay a monthly charge of \$25.00 per lot for all Non-Resident owners. If payments are not made you will be eliminated permanently from the water system. These new conditions described in this letter will go into effect on January 1, 200

THANK YOU

  
Robaer Cobott, President



**IDAHO  
PUBLIC UTILITIES  
COMMISSION**

Dirk Kempthorne, Governor

P.O. Box 83720, Boise, Idaho 83720-0074

Paul Kjellander, President  
Marsha H. Smith, Commissioner  
Dennis S. Hansen, Commissioner

January 23, 2003

Robaer Cobott  
Ponderosa Terrace Estates Water System  
2626 Wrenco Loop Lane  
Sandpoint, Idaho 83864

RE: Customer Letter Dated January 2, 2003

Dear Mr. Cobott:

The Commission has received inquiries from several customers regarding your January 2, 2003 letter. I understand your frustrations and can sympathize with your situation. As more customers continue to drill wells and other customers refuse to pay their bills, it appears likely that Ponderosa will be unable to collect its \$26,600 revenue requirement. This factual situation is usually referred to as a "death spiral" – as rates go up to meet the revenue needs of the utility, more and more customers leave the system, thereby causing a revenue shortfall.

If this occurs, the Ponderosa system may not be financially viable as a public water system. The expenses are too high, the revenue from too few customers is too low, and the infrastructure is too strained. Even though some of the statements in your January 2 letter are contrary to the Commission's Order, Staff believes your rate alternative may have merit given the current financial situation. Consequently, with your assistance we would like to file an updated report with the Commission describing how much the financial status of the system has deteriorated since October and how your rate proposal might improve the financial situation.

In order for us to accurately and persuasively present this information to the Commission, we will need detailed information from you. We need to know, to the best of your knowledge:

1. Which customers have drilled their own wells and what lots are likely to leave the system as a result of the well drilling. We've heard different estimates from a number of customers, but as the owner of the system you are in the best position to assess how many lots have left the water system.
2. How many customers remain in each rate classification. Please provide a summary of the water payments that were made for each month from August to December of 2002. We need this information to demonstrate to the Commission in concrete numbers the declining status of your system.
3. Please provide the amount of monthly revenue you expect to receive from your proposed rate alternative.

ATTACHMENT B  
PAGE 1 of 2

Robaer Cobott  
January 23, 2003  
Page 2

Once the information detailing Ponderosa's current financial situation is provided and described in a Staff report, the Commission will have an opportunity to review the current conditions, consider your rate proposal and perhaps modify its prior Order. Absent a request by you and/or the Staff to modify the Order based on new information, the only alternatives are to comply with the existing Commission Order or consider alternatives to regulation. In any case, the Commission needs to have a clear understanding of Ponderosa's current financial situation. We believe that continued communication with the Commission is the best approach for you and your customers.

Please provide the above requested information and any other financial information that you think might help your case at your earliest convenience or not later than February 18, 2003. We will then promptly complete the report and submit it to the Commission. If you have any questions regarding these tasks, please do not hesitate to contact me directly at (208) 334-0366.

It is my hope that we can work together to improve Ponderosa's financial situation.

Sincerely,



Michael Fuss, PE

u:mfuss:PTE water/011003

P. T. E. WATER SYSTEM, INC.  
 2626 Wrenco Loop  
 Sandpoint, ID 83864  
 208-263-2720

# Statement

DATE  
 2/3/03

TO:  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 Non-Resident  
 Blk. [REDACTED] Lots [REDACTED]

		AMOUNT DUE	AMOUNT ENC.		
		50.00			
DATE	TRANSACTION	AMOUNT	BALANCE		
1/2/03	Balance forward		0.00		
1/3/03	INV # [REDACTED]	73.00	73.00		
1/13/03	PMT # [REDACTED]	-73.00	0.00		
2/3/03	INV # [REDACTED]	50.00	50.00		
THIS STATEMENT IS FOR THE PREVIOUS MONTH'S WATER BILL					
CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	AMOUNT DUE
50.00	0.00	0.00	0.00	0.00	50.00