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IDAHO PUBLIC UTILITIES COMMISSION

BEFORE THE

IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF PONDEROSA TERRACE)
ESTATES WATER SYSTEM, INC.'S FAILURE)
TO COMPLY WITH COMMISSION ORDERS.)
)
)
_____)

CASE NO. PTE-W-03-1

DIRECT TESTIMONY OF MICHAEL FUSS

IDAHO PUBLIC UTILITIES COMMISSION

APRIL 1, 2003

1 Q. Please state your name and business address for
2 the record.

3 A. My name is Michael Fuss. My business address
4 is 472 West Washington Street, Boise, Idaho.

5 Q. By whom are you employed and in what capacity?

6 A. I am employed by the Idaho Public Utilities
7 Commission as a Staff engineer.

8 Q. What is your educational and professional
9 background?

10 A. I have a Bachelor of Science Degree in Civil
11 Engineering from Washington State University and a Master
12 of Business Administration Degree from Boise State
13 University. I am a licensed Civil Engineer in the states
14 of Idaho, Oregon, and Washington. I am a past president
15 of the Southern Idaho Section of the American Society of
16 Civil Engineers and have been a member of various
17 professional affiliations and service organizations.

18 I have over 14 years of Civil Engineering
19 Experience in Municipal, Utility, and Development Civil
20 Engineering and consulting.

21 While at the Idaho Public Utilities Commission,
22 I have attended the National Association of Regulatory
23 Utility Commissioners (NARUC) Basic Training Program at
24 New Mexico State University and the Northwest Public
25 Power Association's course on Unbundled Cost of Service &

1 Rate Design.

2 Q. What is the purpose of your testimony in this
3 proceeding?

4 A. The purpose of my testimony is to outline
5 Ponderosa Terrace Estates (PTE) Water System, Inc.'s
6 (Ponderosa; Company) current failure to comply with Idaho
7 Public Utility Commission (Commission) Orders and to show
8 a history of Ponderosa's disregard for the Commission's
9 authority.

10 Q. Would you please summarize your testimony?

11 A. Certainly. My testimony provides a factual
12 record that shows Ponderosa Terrace Estates Water System,
13 Inc. is currently in violation of Commission Orders. My
14 testimony also documents the Company's history of non-
15 compliance and disregard for the Commission's authority.
16 Taking this into consideration, I recommend that the
17 Commission require Ponderosa to comply with previous
18 Commission Orders and follow proper rules of procedure
19 for regulated water companies.

20 If Ponderosa continues to act contrary to
21 Commission Orders and/or fails to appear at the Show
22 Cause hearing, I further recommend that the Commission
23 consider exercising the civil and criminal remedies
24 available through the judicial system. This may include:
25 1) seeking a civil penalty of \$2,000 per day for each day

1 the utility has failed to comply with Commission Orders
2 pursuant to Idaho Code §§ 61-706 and 61-707; 2)
3 petitioning the 1st Judicial District for an injunction
4 prohibiting Ponderosa from charging rates different than
5 those ordered by the Commission; 3) requesting the court
6 place the Company in receivership; or 4) filing criminal
7 misdemeanor charges under *Idaho Code* §§ 61-708 and 61-709
8 for failure to comply with a Commission Order.

9 Q. Please describe Ponderosa Terrace Estates Water
10 System, Inc.

11 A. PTE Water System, Inc. operates a small water
12 system that serves approximately 80 lots or parcels of
13 property primarily within the Ponderosa Terrace Estates
14 Subdivision south of Sandpoint and east of the community
15 of Sagle in Bonner County, Idaho. The Company delivers
16 water through a looped unmetered system from two supply
17 wells that produce a combined capacity of 25 gallons per
18 minute. Robaer Cobott and his wife, Zaderea Raphael, own
19 Ponderosa including its piping, wells and 10,000 gallons
20 of storage.

21 Q. How did Ponderosa come to be regulated by the
22 Commission?

23 A. The Commission received several complaints from
24 Ponderosa customers who received a May 30, 2001 letter
25 from the Company announcing a significant rate increase.

1 On July 31, 2001, the Commission found it reasonable to
2 conduct an investigation to determine whether Ponderosa
3 Terrace Estates Water System, Inc. was a water
4 corporation as defined by *Idaho Code* §§ 61-124 and
5 61-125. Order No. 28803 (Exhibit No. 1).

6 On September 13, 2001, the Idaho Public
7 Utilities Commission issued Order No. 28845 (Exhibit No.
8 2) in which it found that Ponderosa was operating in such
9 a manner as to fall within the Commission's jurisdiction.
10 Reference *Idaho Code* §§ 61-124--Water Systems; 61-125--
11 Water Corporation and 61-129--Public Utility. The
12 Commission also found that the Company's customers had no
13 say regarding the operation and management of the Company
14 or the prices it charged for water and related services.
15 Consequently, the Commission ordered Ponderosa to file an
16 Application for a Certificate of Public Convenience and
17 Necessity and propose rate schedules with supporting
18 documentation.

19 Q. How did the Commission set Ponderosa's initial
20 rates for service?

21 A. When the Company did not file the required rate
22 schedules or otherwise respond to Order No. 28845
23 (Exhibit No. 2), on November 28, 2001 the Commission
24 established a \$20 per month flat-rate charge for
25 residential customer water usage effective December 1,

1 2001 in Order No. 28903 (Exhibit No. 3). Reference *Idaho*
2 *Code* §§ 61-501; 61-502; 61-503. This \$20 per month rate
3 comported with the state average flat rate for regulated
4 water companies. The Company was further prohibited from
5 assessing any other fees or charges without first
6 providing justification for such charges/fees and
7 obtaining Commission-approved tariffs.

8 Q. Did Ponderosa have an opportunity to respond to
9 the \$20 per month rate set in Order No. 28903 (Exhibit
10 No. 3)?

11 A. Yes. On December 6, 2001, the Commission set a
12 December 17, 2001 Show Cause hearing date in Sandpoint,
13 Idaho to provide the Company and Robaer Cobott the
14 opportunity to show cause why: 1) the \$20 per month
15 flat-rate residential water rate charge established in
16 Order No. 28903 (Exhibit No. 3) was not reasonable and
17 should not continue, and 2) why the Company should not be
18 required to refund/credit customers the difference
19 billed/received since the date of Commission Order No.
20 28845 (Exhibit No. 2). Order No. 28911 (Exhibit No. 4).

21 Despite mailing the Commission Notices and
22 Orders to the Company's registered office as reflected in
23 its corporate filing with the Idaho Secretary of State,
24 the Commission found that Robaer Cobott may have been
25 out-of-state and personally unaware of the scheduled

1 hearing. The Commission issued Order No. 28917 (Exhibit
2 No. 5) on December 14, 2001 to vacate the previously
3 scheduled December 17, 2001 show cause hearing.

4 Q. When did Ponderosa next communicate with the
5 Commission?

6 A. After months of no communication from
7 Ponderosa, the Commission received a letter from
8 Ponderosa dated May 6, 2002, that stated "Ponderosa
9 Terrace Estates Water System Inc. is going to have to go
10 out of business because of the water rates imposed on
11 this company by Idaho Public Utilities Commission."
12 (Exhibit No. 6). The Commission had also received
13 communications from several customers that were concerned
14 that the Company was not billing them. The customers
15 indicated that they would not make payments unless they
16 receive a bill. Staff verified in a telephone
17 conversation with Mr. Cobott that Ponderosa had not, and
18 would not, mail bills to customers with the \$20 per month
19 charge approved by the Commission. Mr. Cobott indicated
20 that he did not agree with that rate and would not send a
21 bill that made it appear as if he accepted the
22 Commission's authorized rates.

23 Q. How did the Commission respond to the May 6,
24 2002 letter from Ponderosa (Exhibit No. 6)?

25 A. Staff filed a Decision Memorandum on May 10,

1 2002 that outlined the Company's financial situation and
2 recommended a rate increase. The Commission issued Order
3 No. 29024 on May 14, 2002 that solicited written comments
4 and gave notice of the proposed increase in rates
5 (Exhibit No. 7).

6 After reviewing customer comments and
7 additional analysis, the Commission issued Order No.
8 29046 (Exhibit No. 8) on June 6, 2002 that scheduled both
9 a Public Hearing and Technical Hearing for June 20, 2002.
10 The Order also provided an additional opportunity for
11 parties to intervene, and extended the public comment
12 deadline.

13 Q. Did the Commission increase Ponderosa's rates
14 as was proposed in its Notice?

15 A. Yes. Based on the hearing testimony and
16 evidence in the record, the Commission established an
17 annual revenue requirement for Ponderosa Terrace Estates
18 Water System in the amount of \$26,604 on August 8, 2002.
19 Order No. 29086 (Exhibit No. 9). To collect this amount,
20 the Commission authorized Ponderosa to collect monthly
21 rates in the amount of \$48 for Full-Time and Part-Time
22 customers and \$25 for Active Service customers.
23 Customers that do not have above ground access to water
24 were not to be charged for service.

25 Q. Was Order No. 29086 (Exhibit No. 9) the last

1 Commission Order to address Ponderosa's Rates?

2 A. No. On September 25, 2002, the Commission
3 denied a Petition for Reconsideration filed by Mr. Lyle
4 Peterson and the Cross-Petition filed by Ponderosa in
5 Order No. 29123 (Exhibit No. 10). The Order also
6 required that PTE Water and Commission Staff to submit a
7 report to the Commission no later than November 25, 2002,
8 detailing changes to the number of customers in each
9 class and the impact these changes would have on
10 Ponderosa's revenues.

11 Q. Has the Commission further clarified Order No.
12 29086 (Exhibit No. 9)?

13 A. Yes. In response to concerns about seasonal
14 disconnection and after Staff filed the required report,
15 the Commission clarified Order No. 29086 (Exhibit No. 9)
16 on December 20, 2002. This order authorized Ponderosa to
17 involuntarily move a customer to the Inactive Service
18 customer class if the customer remained disconnected from
19 the system for longer than eight full months. Order No.
20 29172 (Exhibit No. 11). If the customer later sought to
21 resume service after the eight months had passed, the
22 Commission directed Ponderosa to retain the following
23 information to justify imposition of a \$2,500 hook-up
24 fee: 1) its customer payment and disconnection records,
25 and 2) proof that notice of Ponderosa's intent to move

1 the customer to Inactive Service and require a \$2,500
2 hook-up fee upon reconnection was sent via certified
3 mail. *Id.*

4 Q. Did Ponderosa give any indication that it did
5 not intend to comply with Commission Orders?

6 A. Yes, several customers sent Staff a copy of a
7 Company letter dated January 2, 2003. The letter
8 (Exhibit No. 12) advised customers that the "Ponderosa
9 Terrace Estates Water System Inc. is no longer going to
10 be involved with the Idaho Public Utilities Commission."
11 Mr. Robaer Cobott, Ponderosa's owner and author of the
12 letter, noted that "since P.U.C. has been involved in my
13 water system I have lost many customers" who have drilled
14 wells or withdrawn from the system. He further informed
15 customers that this had reduced Ponderosa's annual
16 revenues by \$9,200 from the \$26,600 Commission-authorized
17 revenue requirement. As a result of Order No. 29172
18 (Exhibit No. 11) issued in December 2002, Ponderosa
19 asserted that the Commission's decision to allow Part-
20 Time and Active Service customers to pay for just a four-
21 month minimum of water reduced the Company's revenue by
22 \$6,400. Consequently, the Company's annual revenues were
23 less than \$10,000.

24 Mr. Cobott wrote, "this water system cannot
25 operate under the current condition that P.U.C. is trying

1 to impose" and that he was going to try to save the water
2 company for those customers needing service. Effective
3 January 1, 2003, Mr. Cobott informed customers that only
4 two customer classes - Resident and Non-Resident - would
5 exist, as he had "before the P.U.C. got involved." Under
6 his plan, Residents (a customer "who lives on his
7 property all year") pay \$48 per month and Non-Residents
8 ("part-time use or no use at all") pay \$25 per month.
9 Ponderosa further allowed customers that were not
10 currently making monthly water payments 30 days from the
11 date of the letter to decide whether to be part of the
12 system or "be withdrawn from any future use from this
13 system."

14 Q. How do these statements differ from Commission
15 Orders?

16 A. Although this rate structure is similar to the
17 one approved by Commission Order No. 29086 (Exhibit No.
18 9) issued in August 2002, Mr. Cobott's statements deviate
19 from the Commission's seasonal disconnection directives
20 in Order No. 29172 (Exhibit No. 11). The letter
21 threatens customers that "if you do not pay a monthly
22 charge to help maintain this system then you will not be
23 able to hookup to the system in the future." Thus, Non-
24 Residents must pay a monthly charge year-round of \$25 per
25 lot to keep water service. The statements also deviate

1 from Order No. 29086 (Exhibit No. 9) by requiring payment
2 from customers that do not have above ground access to
3 water.

4 Q. Did the Company take any of the actions
5 described in the January 2, 2003 letter (Exhibit No. 12)?

6 A. Yes, in early February Staff received a copy of
7 a customer bill (Exhibit No. 13) in which Ponderosa
8 charged a customer that had seasonally disconnected two
9 Non-Resident lots last fall for water service purportedly
10 rendered the month of January 2003. The customer paid
11 Company employee Larry Fairfax \$50 "upfront" to shut off
12 the valves to these lots several months ago. Because the
13 customer was seasonally disconnected and did not request
14 water service during the month of January, the amount
15 charged was contrary to Order No. 29172 (Exhibit No. 11).
16 The customer told Staff that he intended to pay the bill
17 but he expected the Commission to return the payment to
18 him if the billing was improper.

19 Q. Has the Commission Staff tried to address the
20 issue with the Company by means other than this Show Cause
21 hearing?

22 A. Yes, after receiving calls from customers and a
23 copy of the letter described above, Staff sent a letter
24 (Exhibit No. 14) to Mr. Cobott on January 23, 2003.
25 Although noting that some of the statements in the

1 Company's January 2003 letter (Exhibit No. 12) were
2 contrary to the Commission's Orders, Staff indicated that
3 Ponderosa's rate alternative may have some merit given
4 the Company's current financial situation. Staff
5 requested Mr. Cobott's assistance in gathering specific
6 information that Staff could use to file an updated
7 report with the Commission. This report would examine
8 the Company's financial status and determine if it had
9 deteriorated since October 2002. The report would also
10 evaluate whether Ponderosa's rate proposal might improve
11 the Company's financial status. Staff requested that Mr.
12 Cobott provide the requested information no later than
13 February 18, 2003.

14 Q. Did Mr. Cobott reply to Staff's letter?

15 A. No, although Staff emphasized that continued
16 communication with the Commission was the best approach
17 for Mr. Cobott and his customers, as of March 31, 2003,
18 Mr. Cobott has not responded to Staff's letter and
19 information request.

20 Q. Has Mr. Cobott sent other letters in the past
21 that indicated unwillingness to operate as a regulated
22 water company?

23 A. Yes. On December 30, 2001 Mr. Cobott sent a
24 letter to landowners served by the Company stating that he
25 planned to convert Ponderosa from a privately owned water

1 system to a water system association that would be owned
2 and operated by the landowners (Exhibit No. 15). While
3 Staff believes an association is an acceptable method of
4 water system ownership, Staff was unaware of any customers
5 that desired to become members of the association either
6 before or after the letter was sent. The association
7 appeared to be offered only as a way to avoid regulation.

8 On May 1, 2002, Mr. Cobott sent another letter
9 to landowners served by the PTE Water System (Exhibit No.
10 16), which is not to be confused with the previously
11 referenced May 6, 2002 letter (Exhibit No. 6) sent to the
12 Commission. The May 1st letter (Exhibit No. 16) indicated
13 his frustration with the Public Utilities Commission and
14 further stated "Ponderosa Terrace Estates Water System
15 Inc., a public water system, will discontinue doing
16 business as a public water system on May 5, 2002." He
17 noted that revenues received by Ponderosa were down 90%
18 under the jurisdiction of the PUC. He then stated, "I am
19 going to start a privately owned water system on May 10,
20 2002. This water system will be called Ponderosa Terrace
21 Estates Privately Owned Water System Inc."

22 In a letter dated May 4, 2002 (Exhibit No. 17),
23 Mr. Cobott also informed customers of the cost to
24 purchase a share of the proposed privately-held water
25 system, as well as some proposed rates for water service.

1 The letter also included an application form for the
2 landowner to purchase a share of the water system. Mr.
3 Cobott proposed that ownership of the privately-held
4 water company would be comprised of 300 shares for Robaer
5 Cobott and his wife, Zaderea Raphael, and a maximum of
6 100 shares for the remaining landowners.

7 Q. How did the Commission reacted to these
8 letters?

9 A. On January 4, 2002, Scott D. Woodbury, Deputy
10 Attorney General for the State of Idaho, sent Mr. Cobott a
11 letter (Exhibit No. 18) notifying him that the Orders of
12 the Commission - including those approving rates - are law
13 until changed by the Commission through subsequent
14 Commission Orders. Mr. Woodbury's letter further stated
15 that his continued failure to comply with Commission
16 Orders would result in a complaint being filed against him
17 in District Court. As set forth in Chapter 7, Title 61 of
18 the *Idaho Code*, each separate failure to comply with
19 Commission Orders, requirements and directives is subject
20 to a civil penalty of not more than \$2,000. *Idaho Code*
21 § 61-706. Every violation is a separate and distinct
22 offense, and in the case of a continuing violation each
23 day's continuance thereof shall be deemed a separate and
24 distinct offense. *Idaho Code* § 61-707. Every officer,
25 agent or employee of any public utility who fails to obey,

1 observe or comply with any Commission order, decision,
2 rule, direction, demand or requirement or any part or
3 provision thereof, may be guilty of a misdemeanor
4 punishable by a fine not exceeding \$1,000 or by
5 imprisonment in a county jail not exceeding one year, or
6 by both such fine and imprisonment. Idaho Code § 61-709.

7 The Commission had no need to act on the May 1st
8 (Exhibit No. 16) and May 4th (Exhibit No. 17) letters sent
9 to customers because it initiated a formal rate
10 proceeding upon receipt of the previously mentioned
11 May 6th (Exhibit No. 6) letter.

12 Q. Are you confident that the Company is aware of
13 the Commission's Rules and Orders?

14 A. Yes. The Company indicated that it was aware
15 of Commission Orders when it filed a cross-petition on
16 reconsideration of Order No. 29086 (Exhibit No. 9).
17 Moreover, the Company's January 2003 letter (Exhibit No.
18 12) clearly addressed the seasonal disconnection issue
19 addressed in Order No 29172 (Exhibit No. 11).

20 Even though the Company had been provided with
21 the documents previously, on May 30, 2002 Staff provided
22 additional copies of the Utility Customer Relation Rules,
23 the Customer Information Rules, the Policies for Small
24 Water Companies, the Rules of Procedure, and all Orders
25 and correspondence in the case up to that point (Exhibit

1 No. 19). Staff also sent the Company copies of
2 approximately 20 regulated water company annual reports
3 and the Commission's, 2001 Annual report (Exhibit No.
4 20). Mr. Cobott further acknowledged receipt of these
5 documents under oath at the technical hearing held on
6 June 20, 2002. Tr. 171-182 at 180 (Exhibit No. 21).
7 Therefore, I am confident that the Company is aware of
8 Commission's Rules and Orders.

9 Q. How does Staff recommend this show cause
10 proceeding be resolved?

11 A. Staff has attempted to work with Ponderosa to
12 address the Company's concerns about the seasonal
13 disconnection rates set forth in Order No. 29172 (Exhibit
14 No. 11) to no avail. The Company is non-responsive to
15 Staff inquiries and customers are uncertain whether they
16 should pay the amounts billed by Ponderosa or the amounts
17 authorized by Commission Order.

18 Staff recommends that the Commission require
19 Ponderosa to comply with Commission Orders and to follow
20 the procedural rules required of regulated water
21 companies. If Ponderosa pre-files testimony that clearly
22 outlines its concerns and justifies a rate proposal,
23 Staff recommends the Hearing Examiner consider
24 Ponderosa's rate proposal and Staff's rebuttal testimony
25 at the Show Cause hearing.

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If Ponderosa continues to act contrary to Commission Orders and/or fails to appear at the Show Cause hearing, Staff recommends that the Commission consider exercising the civil and criminal remedies available through the judicial system. This may include: 1) seeking a civil penalty of \$2,000 per day for each day the utility has failed to comply with Commission Orders pursuant to *Idaho Code* §§ 61-706 and 61-707; 2) petitioning the 1st Judicial District for an injunction prohibiting Ponderosa from charging rates different than those ordered by the Commission; 3) requesting the court place the Company in receivership; or 4) filing criminal misdemeanor charges under *Idaho Code* §§ 61-708 and 61-709 for failure to comply with a Commission Order.

Q. Does this conclude your direct testimony in this proceeding?

A. Yes, it does.

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE INVESTIGATION)
 INTO WHETHER PONDEROSA TERRACE)
 ESTATES WATER SYSTEM, INC. IS A)
 PUBLIC UTILITY SUBJECT TO REGULA-)
 TION BY THE IDAHO PUBLIC UTILITIES)
 COMMISSION.)**

CASE NO. GNR-W-01-01

NOTICE OF INVESTIGATION

ORDER NO. 28803

The Idaho Public Utilities Commission (Commission) has received several complaints in response to a May 30, 2001 letter announcing a significant increase in rates by Ponderosa Terrace Estates Water System, Inc. (Ponderosa; Company). Ponderosa operates a water system located south of Sandpoint and east of the community of Sagle in Bonner County. There are approximately 20 full-time residences connected to the system and a total of approximately 90 properties within the area served by the water system. This system has been in place since approximately 1969. The current owner is Robaer Cobott.

Ponderosa Terrace Estates Water System, Inc. is an Idaho for profit corporation located at 2626 Wrenco Loop Road, Sandpoint, Idaho 83864 (telephone (208) 263-2720).

Initial inquiry leads Commission Staff to conclude that the Company's customers have no say regarding operation and management of the Company or the prices it charges for water. The Commission notes that Ponderosa Terrace Estates Water System, Inc. does not possess a Certificate of Public Convenience and Necessity to provide water service and operate as a public utility. Reference *Idaho Code* §§ 61-526, -527, -528. We find it reasonable to conduct an investigation pursuant to our statutory authority and jurisdiction under Title 61 of the Idaho Code, commonly known as Public Utilities Law, specifically *Idaho Code* §§ 61-612 and 61-501. The purpose of our investigation is to determine whether Ponderosa Terrace Estates Water System, Inc. is a water corporation as defined by *Idaho Code* §§ 61-124 and 61-125:

61-124 Water System—the term “water system” when used in this act includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures and appliances, and all other real estate, fixtures and personal property, owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage,

supply, distribution, sale, furnishing, carriage, apportionment or measurement of water for power, irrigation, reclamation or manufacturing, or for municipal, domestic or other beneficial use for hire....

61-125 Water Corporation—the term “water corporation” when used in this act includes every corporation or person, their lessees, trustees, receivers or trustees, appointed by any court whatsoever, owning, controlling, operating or managing any water system for compensation within this state.

and a public utility as defined by *Idaho Code* § 61-129:

61-129 Public Utility—the term “public utility” when used in this act includes every common carrier, pipeline corporation, gas corporation, electrical corporation, telephone corporation, **water corporation**, and wharfinger, as those terms are defined in this chapter and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control, and regulation of the Commission and to the provisions of this act: provided, that the term “public utility” as used in this act shall cover cases both where the service is performed and a commodity delivered directly to the public or some portion thereof, and where the service is performed or the commodity delivered to any corporation or corporations, or any person or persons, who in turn, either directly or indirectly or mediately or immediately, performs the services or delivers such commodity to or for the public or some portion thereof.

In particular, this investigation will seek to establish answers to the following questions:

1. Whether Ponderosa Terrace Estates Water System, Inc. is a public utility and is engaged in selling water for compensation without having a Certificate of Convenience and Necessity from the Public Utilities Commission? Reference *Idaho Code* §§ 61-526, -527, -528, I.C. § 61-125.
2. Whether Ponderosa Terrace Estates Water System, Inc. is demanding unjust or unreasonable charges for its water service? Reference *Idaho Code* 61-301.
3. Whether Ponderosa Terrace Estates Water System, Inc. furnishes, provides and maintains service, instrumentalities, equipment and facilities as shall promote the safety and health of its patrons, employees and the public and as shall be in all respects adequate, efficient, just and reasonable? Reference *Idaho Code* 61-302.

4. Whether Ponderosa Terrace Estates Water System, Inc. has failed to file with the Commission tariff schedules showing all rates, charges and classifications collected or in force, or to be collected or in force, together with all rules, regulations, contracts, privileges and facilities which in any manner reflect or relate to rates, classifications or service? Reference *Idaho Code* § 61-305.

We direct the Company to address these questions by formal written answer in this case on or prior to **Wednesday, August 15, 2001**. If the Company answers (1) and (4) in the affirmative, or if our investigation reveals such, we will direct the Company to file for a Certificate of Public Convenience and Necessity (Reference IDAPA 31.01.01.111 Application for Certificates—Form and Contents) and will conduct an investigation into the adequacy of its service and the justness and reasonableness of its rates.

ORDER

In consideration of the foregoing, IT IS HEREBY ORDERED that Ponderosa Terrace Estates Water System, Inc. respond to the foregoing questions regarding compliance with Title 61 of the Idaho Code on or prior to August 15, 2001.

The Company is Further Ordered and directed to cooperate with the Commission Staff's investigation of this matter. Commission Staff is directed to issue production requests, written interrogatories or other forms of discovery as well as pursue its statutory right to examine and audit the records of Ponderosa Terrace Estates Water System, Inc. as they relate or pertain to the sale of water.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this
31st day of July 2001.



PAUL KJELLANDER, PRESIDENT

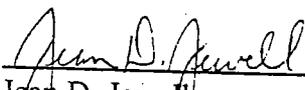


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

vid/O:GNR-W-01-01_sw

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION) INTO WHETHER PONDEROSA TERRACE) ESTATES WATER SYSTEM, INC. IS A) PUBLIC UTILITY SUBJECT TO REGULA-) TION BY THE IDAHO PUBLIC UTILITIES) COMMISSION.)	CASE NO. GNR-W-01-1 ORDER NO. 28845
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The Idaho Public Utilities Commission (Commission) received several complaints from customers in response to a May 30, 2001 letter announcing a significant increase in rates and charges by Ponderosa Terrace Estates Water System, Inc. (Ponderosa; Company). Ponderosa is an Idaho for-profit corporation located at 2626 Wrenco Loop Road, Sandpoint, Idaho 83864 (Telephone (208) 263-2720).

Ponderosa operates a water system located south of Sandpoint and east of the community of Sagle in Bonner County. There are approximately 20 full-time residences connected to the system and a total of approximately 90 properties within the area served by the water system. This system has been in place since approximately 1969. The current owner is Robaer Cobott.

Following initial inquiry into this matter, the Commission Staff concluded that the Company's customers have no say regarding operation and management of the Company or the prices it charges for water. On July 31, 2001, the Commission issued a Notice of Investigation in Case No. GNR-W-01-01. In our Notice, we made the following findings:

- Ponderosa Terrace Estates Water System, Inc. does not possess a Certificate of Public Convenience and Necessity to provide water service and operate as a public utility. Reference *Idaho Code* §§ 61-526, -527, -528.
- We find it reasonable to conduct an investigation pursuant to our statutory authority and jurisdiction under Title 61 of the *Idaho Code*, commonly known as public utilities law, specifically *Idaho Code* §§ 61-612 and 61-501.
- The purpose of our investigation is to determine whether Ponderosa Terrace Estates Water System, Inc. is a water corporation as defined by *Idaho Code* §§ 61-124 and 61-125 and a public utility as defined by *Idaho Code* § 61-129.

• In particular, we noted that our investigation would seek to establish answers to the following questions:

1. Whether Ponderosa Terrace Estates Water System, Inc. is a public utility and is engaged in selling water for compensation without having a Certificate of Public Convenience and Necessity from the Public Utilities Commission? Reference *Idaho Code* §§ 61-125, -526, -527, -528.
2. Whether Ponderosa Terrace Estates Water System, Inc. is demanding unjust or unreasonable charges for its water service? Reference *Idaho Code* § 61-301.
3. Whether Ponderosa Terrace Estates Water System, Inc. furnishes, provides and maintains service, instrumentalities, equipment and facilities as shall promote the safety and health of its patrons, employees and the public and shall be in all respects adequate, efficient, just and reasonable? Reference *Idaho Code* § 61-302.
4. Whether Ponderosa Terrace Estates Water System, Inc. has failed to file with the Commission tariff schedules showing all rates, charges and classifications collected or in force, or to be collected or in force, together with all rules, regulations, contracts, privileges and facilities which in any manner reflect or relate to rates, classifications or service? Reference *Idaho Code* § 61-395.

The Commission directed the Company to address the questions posed by formal written answer prior to Wednesday, August 15, 2001. Pursuant to direction, the Commission received a letter response from Mr. Robaer Cobott, president of PTE Water System, Inc. Mr. Cobott responded to the Commission's questions as follows:

Question 1

Ponderosa Terrace Estates Water System is engaged in selling water for compensation and I don't think there ever was a Certificate of Convenience ever issued. Until I got the call from the Idaho Public Utilities Commission during July 2001, I had never heard of this Commission. This water system has been operating since 1969 (32 years). All of my contacts have been with DEQ in Coeur d'Alene. DEQ has controlled and instructed all parts of this water system. DEQ never once mentioned that there was a Idaho Public Utilities

Commission. I asked DEQ many times about the rate increase and for their help. Again, they never mentioned the Commission.

Question 2

I was told by DEQ that I had the right to increase the rates to get back the monies spent to bring the system up to the new standards enforced by DEQ. They told me that it was up to me what I charge.

Question 3

The system has operated and maintained under the watchful eyes of DEQ.

Question 4

Ponderosa Terrace Estates Water System, Inc. has failed to file with the Commission tariff schedules because until July 2001 it knew nothing of this Commission.

COMMISSION FINDINGS

The Commission has reviewed the filings of record in Case No. GNR-W-01-01 including the Company's response to the questions posed by the Commission in the Company's Notice of Investigation. Based on the Company's response, we find that Ponderosa is operating in such manner as to fall within this Commission's jurisdiction. Reference *Idaho Code* §§ 61-124—Water Systems; 61-125—Water Corporation and 61-129—Public Utility. Of significance, we find that the Company's customers have no say regarding the operation and management of the Company or the prices it charges for water and related services.

Although DEQ may have been providing the Company with some informal guidance through the 32 years of its operation, we must note that this Commission is the State agency with statutory jurisdiction over the Company's water service, rates and charges.

Based on the filed responses of Ponderosa Terrace Estates Water System, Inc., this Commission finds it reasonable to direct the Company to file for a Certificate of Public Convenience and Necessity. Reference *Idaho Code* § 61-526; IDAPA 31.01.01.111. Along with its Certificate Application, the Company is also directed to file proposed tariffs for customer rates and charges with supporting documentation justifying the reasonableness of said rates and charges.

We further find it reasonable that Ponderosa Terrace Estates Water System, Inc. be required to adopt and implement the Commission's Consumer Relations Rules, the

Commission's Utility Customer Information Rules, and an accounting system consistent with the information required by the Commission's annual report for small water companies.

There is some indication, as reflected in a customer letter received by the Commission that the Company's present water system, even with recent capital investment, is inadequate to serve existing customers. Staff investigation into this matter confirms that this is an issue of concern. The Commission finds it reasonable to require that there be no new connections to the existing water system until further order of this Commission.

The Commission notes that its records in this case are insufficient to determine the reasonableness of the rates presently being charged by the Company. We find it reasonable pending our investigation and determination regarding the reasonableness of such rates and charges that there be no shut offs without prior Commission approval and we put the Company on notice that pending final Order, any rates and charges collected will be subject to refund to the extent that they may be determined excessive.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has authority and jurisdiction over Ponderosa Terrace Estates Water System, Inc., a water utility, and the issues raised in Case No. GNR-W-01-01 pursuant to Title 61 of the Idaho Code and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and Ponderosa Terrace Estates Water System, Inc. is hereby directed to file an Application for a Certificate of Public Convenience and Necessity for the water system operated by the Company, located south of Sandpoint and east of the community of Sagle in Bonner County, Idaho.

IT IS FURTHER ORDERED and the Company is further directed to file proposed schedules of rates and charges, with supporting documentation. Any rates and charges collected from the date of this Order will be subject to refund to the extent that they may be determined excessive.

IT IS FURTHER ORDERED and Ponderosa Terrace Estates Water System, Inc. is required to adopt and implement the Commission's Consumer Relations Rules, the

Commission's Utility Customer Information Rules, and an accounting system consistent with the information required by the Commission's annual report for small water companies.

IT IS FURTHER ORDERED and Ponderosa Terrace Estates Water System, Inc. is required to make written petition or application to the Commission prior to any proposed change in ownership of the Ponderosa Terrace Estates Water System, Inc.

THIS IS AN INTERLOCUTORY ORDER. Any person interested in this Order may file a petition for review within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. A petition to review may request that the Commission: (1) rescind, clarify, alter, amend; (2) stay; or (3) finalize this Interlocutory Order. After any person has petitioned for review, any other person may file a cross-petition within seven (7) days. See Rules 321, 322, 323.04, 324, 325 (IDAPA 31.01.01.321 -325.)

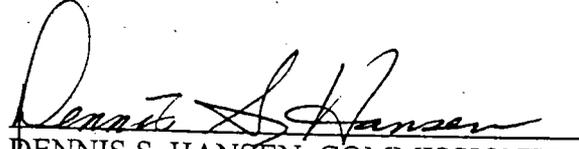
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 12th day of September 2001.



PAUL KJELLANDER, PRESIDENT



MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

vid/O:GNR-W-01-01_sw2

ORDER NO. 28845

5

Exhibit No. 2
Case No. PTE-W-03-1
M. Fuss, Staff
4/1/03 Page 5 of 5

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION)
INTO WHETHER PONDEROSA TERRACE)
ESTATES WATER SYSTEM, INC. IS A PUBLIC)
UTILITY SUBJECT TO REGULATION BY)
THE IDAHO PUBLIC UTILITIES)
COMMISSION)
CASE NO. GNR-W-01-1
ORDER NO. 28903

On September 13, 2001, the Idaho Public Utilities Commission (Commission) issued Order No. 28845 in Case No. GNR-W-01-1. In its Order the Commission found that Ponderosa Terrace Estates Water System, Inc. (Ponderosa; Company) was operating in such manner as to fall within the Commission's jurisdiction. Reference *Idaho Code* §§ 61-124—Water Systems; 61-125—Water Corporation and 61-129—Public Utility. Of significance, the Commission found that the Company's customers have no say regarding the operation and management of the Company or the prices it charges for water and related services.

Ponderosa operates a water system located south of Sandpoint and southeast of the community of Sagle in Bonner County. There are approximately 20 full-time residences connected to the system and a total of approximately 90 properties within the area served by the water system. The system has been in place since approximately 1969. The current owner is Robaer Cobott. Ponderosa is an Idaho for-profit corporation located at 2626 Wrenco Loop Road, Sandpoint, Idaho 83864 (Telephone (208) 263-2720).

The Commission in its Order No. 28845 directed Ponderosa Terrace Estates Water System, Inc. to:

- File an Application for a Certificate of Public Convenience and Necessity for the water system operated by the Company, located south of Sandpoint and east of the community of Sagle in Bonner County, Idaho.
- File proposed schedules of rates and charges, with supporting documentation. Any rates and charges collected from the date of the Commission's Order are subject to refund to the extent that they may be determined excessive.
- Adopt and implement the Consumer Relations Rules, the Commission's Utility Customer Information Rules, and an accounting system consistent with the information required by the Commission's annual report for small water companies.

To date, the Company has not responded to the Commission's Order.

On September 27, 2001, the Commission Staff, by and through its attorney of record, issued a production request to the Company requesting that documents and information be provided on or before Thursday, October 18, 2001. See attached. As part of its production request, Staff requested that the Company provide the information requested by the Commission in Order No. 28845. The Company failed to respond to Staff's production request. The Company has also failed to return telephone calls.

Ponderosa, by notice to customers dated May 30, 2001, is charging residential customers a basic charge of \$60 per month. Non-resident lot owners or parcel owners (of vacant lots) are charged \$30 per month. See attached. The Company has provided no supporting documentation to justify such rates. Staff notes that state average flat rate for Commission regulated water companies (for unlimited usage) is \$19.43 per month. Staff recommends that the Commission establish the authorized charge to residential customers for water at \$19.43/mo. and that the Company be prohibited from assessing any other fees or charges without first providing justification for such charges/fees and obtaining Commission approved tariffs. Staff recommends that the Commission direct the Company to comply with its Order No. 28845 requirements within 10 days and to provide an accounting of all charges and fees assessed and revenue received since the Commission's Order No. 28895. Staff further recommends that the Commission establish a subsequent hearing date for the Company to show cause (if any) why the \$19.43 per month flat rate residential water charge is not reasonable and should not continue and why the Company should not be required to refund/credit customers the difference billed/received since the date of the Commission's Order No. 28845.

Commission Findings

The Commission has reviewed the filings of record in Case No. GNR-W-01-1. We note that the Company has yet to respond to our Order No. 28845 issued September 13, 2001. We note that this matter was initiated pursuant to a customer inquiry regarding a Company proposed rate increase. Pursuant to Company notice, Ponderosa was increasing the monthly basic charge for water customers from approximately \$18.50 to \$60.00. In our Order we required the Company to file proposed tariffs with justification for rates and charges. The Company was put on notice that it would be required to refund rates and charges to the extent

they were determined to be excessive. The Company has made no filing and provided no documentation to justify its rates. Similar information was requested in the Staff Production Request which the Company has failed to respond to. We note that the Company has also failed to return Staff's telephone calls.

Staff has no information or account records to propose a different schedule of Company specific rates and charges for Ponderosa Terrace Estates. Staff represents however, that the state average flat rate for Commission regulated water companies is \$19.43 per month or \$233.16 per year. We note that this exceeds the rate that preceded the Company's most recent increase. The Commission finds it reasonable to establish the authorized charge to residential customers of Ponderosa for water usage at \$20.00 per month, effective December 1, 2001. We also find it reasonable that the Company be prohibited from assessing any other fees or charges without first providing justification and obtaining Commission approved tariffs.

We further find it reasonable to require the Company to comply with our Order No. 28845 (application for Certificate; proposed schedule of rates and charges with supporting documentation, etc.). Supporting documentation is to include at a minimum the information requested in Staff's September 27, 2001 Production Request (attached). We also find it reasonable to require the Company to provide an accounting of all charges and fees assessed and revenue collected since the Commission's Order No. 28845. The filing deadline for all information to be provided is Wednesday, December 12, 2001.

It is the Commission's intention by separate Order and Notice to establish a subsequent hearing date in northern Idaho for the Company to show cause why the \$19.43 per month flat rate for residential water usage is not reasonable and should not continue and why the Company should not be required to refund/credit customers the difference billed/received since the date of the Commission's Order No. 28845.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over this matter and Ponderosa Terrace Estates Water System, Inc., an Idaho for-profit corporation located at 2626 Wrenco Loop Road, Sandpoint, Idaho 83864 and over its current owner, Robaer Cobott, pursuant to the authority and power granted under Title 61 of the Idaho Code and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

Enforcement Powers and Penalties

The enforcement powers and related penalties of the Commission are set forth in Chapter 7 Title 61 of the Idaho Code. Any public utility which violates or fails to comply with any provisions of Title 61 Idaho Code, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement or any part or provision thereof, of the Commission, is subject to a civil penalty of not more than \$2,000 for each and every offense. Reference *Idaho Code* § 61-706. Every violation is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense. Reference *Idaho Code* § 61-707. Every officer, agent or employee of any public utility who fails to obey, observe or comply with any order, decision, rule, direction, demand or requirement or any part or provision thereof, of the Commission under the provisions of Idaho Code, Title 61, may be guilty of a misdemeanor punishable by a fine not exceeding \$1,000 or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment. Reference *Idaho Code* § 61-709.

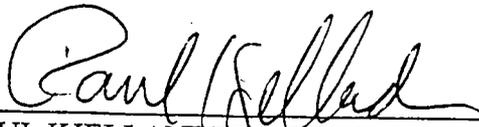
ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby establish for Ponderosa Terrace Estates Water System, Inc. a monthly flat rate charge for residential customer water usage at \$20.00 per month, effective December 1, 2001. Reference *Idaho Code* §§ 61-501; -502; -503.

IT IS FURTHER ORDERED and Ponderosa Terrace Estates Water System, Inc. is hereby prohibited from assessing any other fees or charges without first providing justification for such charges/fees and obtaining Commission approved tariffs.

IT IS FURTHER ORDERED and Ponderosa Terrace Estates Water System, Inc. is hereby directed 1) to comply with the requirements of Order No. 28845, 2) to provide the information requested in Staff's September 27, 2001 Production Request (attached), and 3) to provide an accounting of all charges and fees assessed and revenue collected since the Commission's Order No. 28845, on or prior to Wednesday, December 12, 2001.

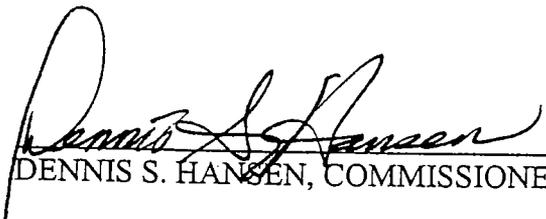
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 28th
day of November 2001.



PAUL KJELLANDER, PRESIDENT



MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

bls/O:GNRW011_sw3

SCOTT WOODBURY
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0320
IDAHO BAR NO. 1895

Street Address for Express Mail:
472 W. WASHINGTON
BOISE, IDAHO 83702-5983

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION)	
INTO WHETHER PONDEROSA TERRACE)	CASE NO. GNR-W-01-1
ESTATES WATER SYSTEM, INC. IS A PUBLIC)	
UTILITY SUBJECT TO REGULATION BY THE)	FIRST PRODUCTION REQUEST
IDAHO PUBLIC UTILITIES COMMISSION.)	OF THE COMMISSION STAFF
)	TO PONDEROSA TERRACE
)	ESTATES WATER SYSTEM, INC.
)	
)	

The Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Scott Woodbury, Deputy Attorney General, requests that Ponderosa Terrace Estates Water System, Inc. (Ponderosa Terrace Estates; Company) provide the following documents and information on or before **THURSDAY, OCTOBER 18, 2001.**

Ponderosa Terrace Estates is reminded that responses pursuant to Commission Rules of Procedure must include the name and phone number of the person preparing the document, and the name, location and phone number of the record holder. Reference IDAPA 31.01.01.228.

This Production Request is to be considered as continuing, and the Company is requested to provide, by way of supplementary responses, additional documents that it or any person acting on its behalf may later obtain that will augment the documents produced.

FIRST PRODUCTION REQUEST TO
PONDEROSA TERRACE ESTATES
WATER SYSTEM

Please provide answers to each question; supporting workpapers that provide detail or are the source of information used in calculations; the name and telephone number of the person preparing the documents; and the name, location and telephone number of the record holder.

For each item, please indicate the name of the person(s) preparing the answers, along with the job title of such person(s) and the witness who can sponsor the answer at hearing.

For each year 1998, 1999, 2000 and year-to-date 2001, please provide detail for all expenditures made to operate, maintain and improve the water system. Specifically provide the following:

Request No. 1: Please provide a detailed schedule showing each individual asset that makes up the total depreciable assets of \$129,853 reflected on the Balance Sheet (Schedule L) of the 1998 and 1999 Income Tax Returns for the water company. Include the date of the investment.

Request No. 2: Please provide a schedule and detailed support showing each additional asset added during the years 2000 and 2001 to date including but not limited to the new well, chlorinator, chlorinator building and supply line to the reservoir. Include a description of the purpose of the investment and the completion date.

Request No. 3: Please provide a copy of the most recent detailed depreciation schedule maintained by the Company's independent tax preparer, Rod Lamphear of the firm Rhodes & Fullaway, P.S.

Request No. 4: Please provide an explanation and support for each expenditure that makes up the \$476 of Auto Expense reported in the Company's 1998 Income Tax Return and the \$561 shown on the 1999 Income Tax Return.

Request No. 5: Please provide an explanation and support for each expenditure that makes up the \$113 of Bank Charges reported in the Company's 1998 Income Tax Return and the \$122 shown on the 1999 Income Tax Return.

Request No. 6: Please provide an explanation and support for each expenditure that makes up the \$1,311 of Office Expense reported in the Company's 1998 Income Tax Return and the \$406 shown on the 1999 Income Tax Return.

Request No. 7: Please provide an explanation and support for each expenditure that makes up the \$550 of Professional Fees reported in the Company's 1998 Income Tax Return and the \$31 shown on the 1999 Income Tax Return.

Request No. 8: Please provide an explanation and support for each expenditure that makes up the \$576 of Telephone Expense reported in the Company's 1998 Income Tax Return and the \$576 shown on the 1999 Income Tax Return.

Request No. 9: Please provide an explanation and support for each expenditure that makes up the \$2,092 of Utility Expense reported in the Company's 1998 Income Tax Return and the \$2,765 shown on the 1999 Income Tax Return.

Request No. 10: Please provide an explanation and support for each expenditure that makes up the \$487 of Survey & Water Testing Expense reported in the Company's 1998 Income Tax Return and the \$2,878 shown on the 1999 Income Tax Return.

Request No. 11: Please provide an explanation and support for each expenditure that makes up the \$1,247 of Consulting Expense reported in the Company's 1999 Income Tax Return.

Request No. 12: Please provide an explanation and support for each expenditure that makes up the \$515 of Insurance Expense reported in the Company's 1999 Income Tax Return.

Request No. 13: For each of the years 2000 and 2001 to date provide an explanation and support for each expense item incurred that is not an asset as identified in item No. 2 above.

Request No. 14: Please provide a detailed explanation of how the "Loans From Shareholders" balance of \$157,292 as shown in the 1999 Income Tax Return was incurred. Please provide detail of any additional amounts for the years 2000 and 2001 to date.

In addition please respond to the following questions:

Request No. 15: How many dwelling units are currently connected to the water system?

Request No. 16: How many vacant building lots have water service connections to the water system?

Request No. 17: How many dwelling units and/or vacant building lots have multiple service connections to the water system? Please provide details for each.

Request No. 18: How many lots do not have water service?

Request No. 19: What is the anticipated schedule for the completion of the development?

Request No. 20: Please provide a plat map of the service area showing the location of all water lines, wells, pumps, fire hydrants, valves and reservoirs. Indicate the size of all water lines.

Request No. 21: Please provide any engineering, groundwater hydrology or other reports or studies that were used for determining the location and depth of the newest well.

Request No. 22: Please provide any engineering report or calculation that has determined the actual number and class of customers that can be served by the Ponderosa Terrace Estates Water System.

Request No. 23: Please provide the name, mailing address and telephone numbers of all customers of PTE.

Request No. 24: Please provide all available monthly customer use data for the years 1999 and 2000. Data should be in the following forms:

- a) By customer class
- b) Total usage
- c) Total number of customers and number of customers by class.

Request No. 25: Please provide all available scheduled maintenance information including, at a minimum, type and frequency of maintenance activity.

Request No. 26: What is the estimated system water loss and how is it determined?

Request No. 27: When was the \$500 charge for failure to protect water pipes in the winter initiated?

Request No. 28: How many times has the \$500 fee for failure to protect water lines in winter been imposed?

Request No. 29: What is the cost basis for the \$500 fee for failure to protect water lines in winter?

Request No. 30: When was the \$500 disconnection fee initiated?

Request No. 31: How many times has the disconnection fee been imposed?

Request No. 32: What is the cost basis for the \$500 disconnection fee?

Request No. 33: When was the \$500 reconnection fee initiated?

Request No. 34: How many times has the reconnection fee been imposed?

Request No. 35: What is the cost basis for the \$500 reconnection fee?

Request No. 36: When is a customer account considered late and subject to the \$10 late fee?

Request No. 37: When is a customer account considered past due and subject to the 18% interest charge?

Request No. 38: What is the amount of PTE's initial hook-up charge?

Request No. 39: Has the amount of the initial hook-up charge ever been changed?

Request No. 40: If the hook-up charge has ever been changed, provide a history of those changes.

Request No. 41: What is the purpose of the initial hook-up charge?

Request No. 42: How many hook-up charges have been collected on the system and what is the total amount that has been collected?

Request No. 43: Please provide a schedule showing the legal description, owner and mailing address for each property upon which PTE has filed a lien for non-payment of water bills. Include the date of the lien.

Request No. 44: How much does it cost PTE to file a lien? Detail preparation costs and filing fees.

Exhibit No. 3
Case No. PTE-W-03-1
M. Fuss, Staff
4/1/03 Page 11 of 12

Request No. 45: The Commission in its Order No. 28845 directed Ponderosa Terrace Estates Water System, Inc. to adopt and implement the Commission's Utility Customer Relations Rules (UCRR), Utility Customer Information Rules (UCIR) and an accounting system consistent with the information required by the Commission's annual report for small water companies. Please provide a draft of each of the following:

- a) A customer bill that meets Utility Customer Relations Rules, **UCRR Rule 201** and **202** requirements. (Small water companies, such as PTE, are not required to provide a comparison of usage).
- b) Your notice of disconnection as outlined in **UCRR Rule 305**. (Examples of disconnection notices were provided to you on August 11, 2001.)
- c) Your summary of rules as required by **UCRR Rule 701**. (Examples of a rule summary were provided to you on August 11, 2001.)

Request No. 46: Order No. 28845 further directed PTE to file an Application for a certificate of convenience and necessity with supporting documentation regarding service area and rates. Please provide that Application together with your responses to this request for information.

Dated at Boise, Idaho, this day of September 2001.

Technical Staff: Bob Smith
Marge Maxwell
Michael Fuss

Scott Woodbury
Deputy Attorney General

SW:gdk:i:umisc/prodreq/gnrw01.lswresmjimmfuss

Exhibit No. 3
Case No. PTE-W-03-1
M. Fuss, Staff
4/1/03 Page 12 of 12

FIRST PRODUCTION REQUEST TO
PONDEROSA TERRACE ESTATES
WATER SYSTEM

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION)
 INTO WHETHER PONDEROSA TERRACE)
 ESTATES WATER SYSTEM, INC. IS A PUBLIC)
 UTILITY SUBJECT TO REGULATION BY)
 THE IDAHO PUBLIC UTILITIES)
 COMMISSION.)

CASE NO. GNR-W-01-1

NOTICE OF SHOW CAUSE
HEARING

ORDER NO. 28911

BACKGROUND

On September 13, 2001, the Idaho Public Utilities Commission (Commission) issued Order No. 28845 in Case No. GNR-W-01-1. In its Order the Commission found that Ponderosa Terrace Estates Water System, Inc. (Ponderosa; Company) was operating in such manner as to fall within the Commission's jurisdiction. Reference *Idaho Code* §§ 61-124—Water Systems; 61-125—Water Corporation and 61-129—Public Utility. Of significance, the Commission found that the Company's customers have no say regarding the operation and management of the Company or the prices it charges for water and related services.

Ponderosa operates a water system located south of Sandpoint and southeast of the community of Sagle in Bonner County, Idaho. There are approximately 20 full-time residences connected to the system and a total of approximately 90 properties within the area served by the water system. The system has been in place since approximately 1969. The current owner is Robaer Cobott. Ponderosa is an Idaho for-profit corporation located at 2626 Wrenco Loop Road, Sandpoint, Idaho 83864.

The Commission in its Order No. 28845 directed Ponderosa Terrace Estates Water System, Inc. to:

- File an Application for a Certificate of Public Convenience and Necessity for the water system operated by the Company, located south of Sandpoint and east of the community of Sagle in Bonner County, Idaho.
- File proposed schedules of rates and charges, with supporting documentation. Any rates and charges collected from the date of the Commission's Order are subject to refund to the extent that they may be determined excessive.

- Adopt and implement the Consumer Relations Rules, the Commission's Utility Customer Information Rules, and an accounting system consistent with the information required by the Commission's annual report for small water companies.

To date, the Company has not responded to the Commission's Order and has made no filing and provided no documentation to justify its rates.

On November 28, 2001, the Commission issued Order No. 28903 in Case No. GNR-W-01-1 establishing a \$20 per month flat-rate charge for residential customer water usage effective December 1, 2001.¹ Reference *Idaho Code* §§ 61-501; 61-502; 61-503. The Company was further prohibited from assessing any other fees or charges without first providing justification for such charges/fees and obtaining Commission approved tariffs.

YOU ARE HEREBY NOTIFIED that a **public hearing** in Case No. GNR-W-01-1 is scheduled for **MONDAY, DECEMBER 17, 2001, COMMENCING AT 6:00 P.M. AT THE EDGEWATER RESORT, 56 BRIDGE STREET, SANDPOINT, IDAHO (Telephone: (208) 263-3194)**. The purpose of the hearing is to permit the Company and Robaer Cobott to show cause (if any) why the \$20 per month flat-rate residential water charge established in Order No. 28903 is not reasonable and should not continue and why the Company should not be required to refund/credit customers the difference billed/ received since the date of the Commission's Order No. 28845. The Commission following the show cause hearing will also receive public comment from customers regarding Ponderosa Terrace Estates and its water service operations.

YOU ARE FURTHER NOTIFIED that all hearings in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). In order to participate in or to understand testimony and argument at a public hearing, persons needing help of a sign language interpreter or other assistance may ask the Commission to provide a sign language interpreter or other assistance as required under the ADA. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

¹ The \$20 per month rate authorized by the Commission comports with the state average flat-rate for Commission regulated water companies.

IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0338 (TELEPHONE)
(208) 334-3762 (FAX)

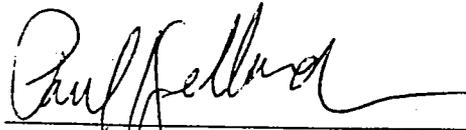
YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and that the Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

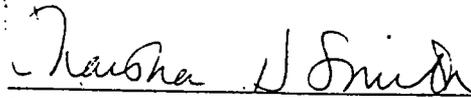
ORDER

IT IS HEREBY ORDERED and the Commission does hereby adopt the scheduling set forth above for **Show Cause Hearing** in Case No. GNR-W-01-1.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this *6th* day of December 2001.



PAUL KJELLANDER, PRESIDENT

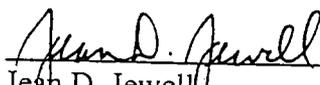


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

Vld/O:GNR-W-01-01_sw4

NOTICE OF SHOW CAUSE HEARING
ORDER NO. 28911

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE INVESTIGATION)
 INTO WHETHER PONDEROSA TERRACE)
 ESTATES WATER SYSTEM, INC. IS A PUBLIC)
 UTILITY SUBJECT TO REGULATION BY)
 THE IDAHO PUBLIC UTILITIES)
 COMMISSION.)**

CASE NO. GNR-W-01-1

**NOTICE OF VACATED
 HEARING**

ORDER NO. 28917

BACKGROUND

On September 13, 2001, the Idaho Public Utilities Commission (Commission) issued Order No. 28845 in Case No. GNR-W-01-1. In its Order the Commission found that Ponderosa Terrace Estates Water System, Inc. (Ponderosa; Company) was operating in such manner as to fall within the Commission's jurisdiction. Reference *Idaho Code* §§ 61-124—Water Systems; 61-125—Water Corporation and 61-129—Public Utility. Of significance, the Commission found that the Company's customers have no say regarding the operation and management of the Company or the prices it charges for water and related services.

Ponderosa operates a water system located south of Sandpoint and southeast of the community of Sagle in Bonner County, Idaho. There are approximately 20 full-time residences connected to the system and a total of approximately 90 properties within the area served by the water system. The system has been in place since approximately 1969. The current owner is Robaer Cobott. Ponderosa is an Idaho for-profit corporation located at 2626 Wrenco Loop Road, Sandpoint, Idaho 83864.

The Commission in its Order No. 28845 directed Ponderosa Terrace Estates Water System, Inc. to:

- File an Application for a Certificate of Public Convenience and Necessity for the water system operated by the Company, located south of Sandpoint and east of the community of Sagle in Bonner County, Idaho.
- File proposed schedules of rates and charges, with supporting documentation. Any rates and charges collected from the date of the Commission's Order are subject to refund to the extent that they may be determined excessive.
- Adopt and implement the Consumer Relations Rules, the Commission's Utility Customer Information Rules, and an accounting system consistent

with the information required by the Commission's annual report for small water companies.

To date, the Company has not responded to the Commission's Order and has made no filing and provided no documentation to justify its rates.

On November 28, 2001, the Commission issued Order No. 28903 in Case No. GNR-W-01-1 establishing a \$20 per month flat-rate charge for residential customer water usage effective December 1, 2001.¹ Reference *Idaho Code* §§ 61-501; 61-502; 61-503. The Company was further prohibited from assessing any other fees or charges without first providing justification for such charges/fees and obtaining Commission approved tariffs.

On December 6th the Commission set a December 17, 2001 hearing date in Sandpoint, Idaho to provide the Company and Robaer Cobott the opportunity to show cause (if any) why the \$20 per month flat-rate residential water rate charge established in Order No. 28903 is not reasonable and should not continue and why the Company should not be required to refund/credit customers the difference billed/received since the date of the Commission's Order No. 28845.

YOU ARE HEREBY NOTIFIED that despite the mailing of Commission Notices and Orders to the registered office of the corporation as reflected in the Company's corporate filing with the Idaho Secretary of State, the Commission, based on Staff investigation, has reason to believe that Robaer Cobott may be out of state and may be personally unaware of the scheduled hearing. The Commission therefore finds it reasonable to vacate the previously scheduled December 17, 2001 show cause hearing. Mr. Cobott may by written petition to the Commission request the rescheduling of such a hearing.

COMMISSION FINDINGS

The Commission has reviewed the filings of record in Case No. GNR-W-01-01. Our prior Orders, findings and directions to the Company in this case continue to be effective and unabated.

Addressing customer concerns regarding the adequacy of the present water system to serve existing customers, we reiterate that the Company is to make no new connections to the existing water system until further order of this Commission. Reference Order No. 28845.

¹ The \$20 per month rate authorized by the Commission comports with the state average flat-rate for Commission regulated water companies.

The Company having failed to make formal Application for a Certificate of Public Convenience and Necessity as directed and required by Order No. 28845, we find it reasonable based on the established record in this case to assign Certificate of Public Convenience and Necessity No. 393 to Ponderosa Terrace Estates Water System, Inc., an Idaho for-profit corporation located at 2626 Wrenco Loop Road, Sandpoint, Idaho 38364. As reflected in the Company's corporate filings with the Idaho Secretary of State, the identified agent of the corporation for purpose of service at said address is Robaer Cobott. Reference *Idaho Code* §§ 61-526; 61-528 and Commission Rules of Procedure 111 (Certificate—New Utility).

In assigning a certificate number, the Commission finds that Ponderosa is a water corporation as defined by *Idaho Code* §§ 61-124 and 61-125 and a public utility as defined by *Idaho Code* § 61-129.

We authorize service by Ponderosa to that water system located south of Sandpoint and southeast of the community of Sagle in Bonner County and serving Ponderosa Terrace Estates and any adjacent areas as may be presently served by the existing system—an area more particularly described as a water system located in the Southwest Quarter of Section 5, Township 55 North, Range 1 West, Boise-Meridian, Bonner County, Idaho.

We continue to find it reasonable to authorize only a \$20 per month flat-rate charge for residential customer water usage. Reference Order No. 28903. Only those customers actually connected to the system and who have the physical service facilities in place that permit a customer to open a tap and receive water without a requested turn-on by the Company are to be charged for water service.

The Company continues to be prohibited from assessing any other fees or charges without first providing justification for such charges/fees and obtaining Commission approved tariffs. Reference Order No. 28903.

The Commission continues to find it reasonable to prohibit water shutoffs by the Company or involuntary termination of service without prior Commission approval. Reference Order No. 28845.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over this matter and Ponderosa Terrace Estates Water System, Inc., an Idaho for-profit corporation located at 2626 Wrenco Loop Road, Sandpoint, Idaho 83864 and over its current owner, Robaer Cobott, pursuant to the authority

and power granted under Title 61 of the Idaho Code and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby vacate the previously scheduled December 17, 2001 show cause hearing in Case No. GNR-W-01-01.

IT IS FURTHER ORDERED and the Commission does hereby assign Certificate of Public Convenience and Necessity No. 393 to Ponderosa Terrace Estates Water System, Inc., an Idaho for-profit corporation.

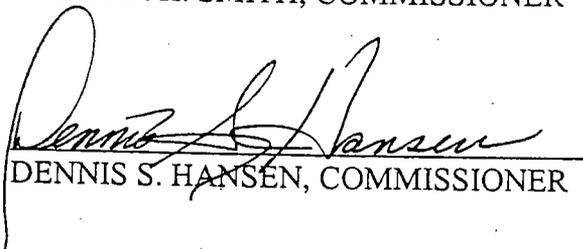
IT IS FURTHER ORDERED and the Company is directed to comply with the requirements and prohibitions set forth in our findings above and in our prior Orders in this case. Reference Order Nos. 28845, 28903.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 14th day of December 2001.



PAUL KJELLANDER, PRESIDENT

Out of the Office on this Date
MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

vid/O:GNR-T-01-01_sw5

2626 Wrenco Loop Road
Sandpoint, Idaho 83864

P.T.E.WATER SYSTEM INC.

Telephone 208-263-2720

May 6, 2002

Jean Jewell
Commission's Secretary
Idaho Public Utilities Commission

Dear Jean Jewell

This letter is **URGENT, URGENT, URGENT**

Ponderosa Terrace Estates Water System Inc. is going to have to go out of business because of the water rates imposed on this company by Idaho Public Utilities Commission. The revenue of this company is down around 90 to 95% because of the P.U.C. rulings. This company is not receiving enough revenue to pay the electric bills which are about 3-months behind. After the P.U.C. made their ruling on the water rates in November, 2001 the landowners must feel that they have the P.U.C. on their side and the landowners are now in control because only a few are paying. This company does not want to go out of business. I gave the P.U.C., Robert Smith, the necessary expense information that you requested on March 30, 2002. At this time nothing has been done about my company's situation. I talked to Randy Lawd at P.U.C. at 8:00 oclock this morning and he was very helpfull with information on my situation. Randy told me to write this letter to you in hopes that at the next meeting of the Commission maybe the Commission could act on my behalf.

THANK YOU

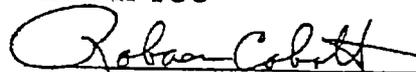

Robaer Cobott, President

Exhibit No. 6
Case No. PTE-W-03-1
M. Fuss, Staff
4/1/03

Mr. Cobott to show cause (if any) why the \$20 per month flat month rate established by Order No. 28903 was not reasonable and to take public comment from customers regarding the water service. The Commission vacated the Show Cause hearing on December 14, 2001 by Order No. 28917 based upon information that Mr. Cobott most likely was out of town and would be unable to attend the hearing. In its Order vacating the hearing the Commission assigned Certificate of Convenience and Necessity No. 393 to the Company and reiterated the findings and directives of its prior Orders.

On January 4, 2002, following receipt of information that Mr. Cobott was attempting to restructure the water company, Staff counsel sent Mr. Cobott a letter informing him that Orders of the Commission are law until changed by the Commission and reminding him that the Company must “. . . make written petition or application to the Commission prior to any proposed change in ownership of the Ponderosa Terrace Estates Water System, Inc.” Reference Order No. 28845.

Subsequently, the Staff has met personally with the owners of the water system on February 11 and again on March 30, 2002. At the March 30 meeting, Mr. Cobott brought numerous financial documents with him for Staff's review. A final piece of information, a depreciation schedule, was supplied to Staff on April 10, 2002. Staff notes that the most recent entries in the depreciation schedule are for the year 1997.

CURRENT DEVELOPMENTS

Staff has advised the Commission that numerous phone calls and faxes were received over the weekend of May 4 and 5, 2002 and the morning of Monday May 6, 2002 from customers and from Bonner County Commissioner Brian Orr. These contacts address a letter sent to customers dated Saturday, May 4, 2002 informing them that the Ponderosa Terrace Water System Inc. “. . . will discontinue doing business as a public water system on May 5, 2002,” and further “This public water system will be shut down on [Sunday] May 5, 2002.” Customers have informed Staff that this language meant that the on-site water system operator, Larry Fairfax, had been given instructions to physically shut the system pumps off. Apparently, this did not occur.

The May 4 letter goes on to state that Mr. Cobott is “. . . going to start a privately owned water system on May 10, 2002, called ‘Ponderosa Terrace Estates Privately-Owned Water

System Inc.”” Property owners in the subdivision must subscribe and be a shareowner in order to receive water service.

The Commission is also in receipt of a letter from Mr. Cobott dated May 6, 2002. In this letter, Mr. Cobott states that the Ponderosa Terrace Estates Water Company is going to have to go out of business because of the rates set by this Commission. He states that revenues are down 90 to 95%. Several customers have contacted the Commission Staff concerned that the Company was not billing them. They have indicated that they will not make payments unless they receive a bill. Staff has verified by telephone conversation with Mr. Cobott that this is the case. He has not and will not mail bills to customers with the \$20 per month charge approved by the Commission. He does not agree with that rate and will not send a bill that makes it appear he accepts the Commission’s authorized rates.

FINANCIAL POSITION

Staff has completed a cursory review of the financial position of the Company based upon the material submitted by Mr. Cobott and provided the information to the Commission in a Decision Memorandum dated May 8, 2002. Attachment No. 1 to this Order is a one-page schedule that calculates the revenue requirement for this system. Staff refers to its analysis as cursory due to the large amount of data that appears to Staff to be somewhat arbitrary. Staff has adjusted some of the data for what appear to be unreasonable costs charged to the water system. Staff eliminated a one time non-recurring charge of \$1,417.20 for refinancing costs on the owners’ home. Staff eliminated \$271.70 as a non-recurring charge for computer memory upgrade. Staff reduced the Company’s proposed \$3,600 home office rent allowance to \$1,200 based upon commercial office rental in the Sandpoint area as posted on the web site of “Sandpoint Property Management.” These rental prices include utilities; therefore Staff has eliminated the Company’s proposed office heat allowance of \$340.55 and Office electricity of \$402. Staff notes that the Company assigned \$5,520 as the water company’s share of payments on the owners’ home mortgage. Staff eliminated this item. The water company’s share of this cost, Staff states, is covered by Staff’s allowed return at 12%, assuming 100% equity, on the cost of the new well placed in service with proceeds from the refinance. Staff further reduced the Company’s proposed \$9,000 allowance for Mr. Cobott’s management fee to \$4,160. The proposed Staff allowance is based upon an average of 4 hours per week at a rate of \$20 per hour. Staff contends that this

allowance is quite generous based upon its experience in trying to contact Mr. Cobott and similar experiences reported to Staff by customers. Staff also eliminated a line item entitled "Monthly Profit" proposed by the Company in the amount of \$3,600. This item, Staff contends, appears to be completely arbitrary. Profit is covered by Staff's allowed return at 12% on the cost of the new well placed in service. Staff has added a depreciation expense of \$963.87 for the new well that was not included in the data the Company provided. Staff advanced the Company provided depreciation schedule for the missing years 1998 through 2001 and determined that all investments other than the new well have been fully depreciated. Staff recommends acceptance of the Company's proposed \$200 per month maintenance reserve fee. Staff cautions the Company that this needs to be a funded reserve placed in a bank account and not drawn for a purpose other than maintenance of the water system.

Staff's calculations, after review of the Company data, produce a total annual revenue requirement for this Company of \$25,282.41.

RATE DESIGN

Staff notes the challenge the Company is faced with in attempting to distribute the total revenue requirement equitably among its customers. Traditional ratemaking procedures and policies, Staff contends, assume that an individual (household) should not pay for a commodity they do not receive. When electric service, gas service and telephone service is disconnected, billing stops. The same also holds true for water companies. However, Staff notes the difficulty of applying this policy to small water systems like Ponderosa Terrace Estates that were constructed to serve a vacation home development. Designing rates for such a regulated stand-alone water system to recover the cost of operating and maintaining the system, Staff contends, involves what appear to be two diametrically opposing inequities.

The traditional approach, where a customer does not pay for a commodity during a period of disconnection, shifts the burden of supporting the entire system onto those customers who are connected to the system. This is not a problem on a large system with a diverse customer base. When this occurs on a small customer base system, Staff contends that the cost shift can be significant and burdensome. Staff reports that Ponderosa Terrace Estates was constructed in the late 1960's to serve 87 properties. Now, more than 30 years later, only 20 properties are developed and utilized full time. Some properties are used for a week or a month a year and are

not occupied the remainder of the year. Ponderosa Terrace Estates Water Company is somewhat unique because each lot in the subdivision is equipped with a customer service line and most (if not all) also have a frost-free water hydrant installed on the property. Any property owner has the ability to connect a recreational vehicle to the water hydrant and begin consuming water in a matter of minutes without contacting the Company. Several of the property owners have reported owning one or more lots purchased years ago either on speculation or for future use as a retirement property. Staff presented three possible rate design scenarios. See Attachment 2 to this Order.

Staff Option 3 addresses the water system's inability to provide sufficient water supply to serve all 87 properties on a full-time basis. Staff states that it has reviewed the Tucker Engineering Water Disinfection System Report and the supply well logs for the development. These documents, it states, indicate that current system supply capacity is approximately 25 gallons per minute. Staff calculates that the maximum number of full-time customers that could be served by the existing system is 37 customers. Staff Option 3 provides rates reflective of the limited water supply.

Option 3 rates are determined in three steps. First the variable costs associated with water consumption are distributed to the full-time customers. Second the fixed costs are allocated to the maximum number of full-time customers (37) that could be connected to the existing water supplies. Because the existing 20 full-time customers are in this category, steps one and two establish rates for the full-time customer class of \$61.50/month. Staff states that it is unaware if any of the remaining properties will convert to full-time customers in the near future. Therefore, the third step equally allocates the revenue requirement not collected by the full-time customers to the remaining 67 properties, which amounts to \$13.00/month. Staff believes the Option 3 rate design appropriately allocates system cost to customers based upon the impact the class of customer has on the system. Since the system will not be able to serve the remaining 67 customers on a full-time basis, they are not fully allocated the fixed costs. This option, Staff contends, also provides a price signal regarding the system capacity limitations and further emphasizes the current Commission restriction on new full-time hookups.

Commission Findings

The Commission has reviewed the filings of record in Case No. GNR-W-01-1. The Commission apprises Mr. Cobott that as a regulated utility he is bound to comply with Idaho

statutes, Commission Orders and Commission Rules and Regulations. It appears as reflected above, that Mr. Cobott has not mailed bills to customers at the \$20 per month charge approved by the Commission. Reference Order No. 28903. He purportedly does not agree with that rate and will not send a bill that makes it appear he accepts the Commission's authorized rates. The Company would be well advised to reconsider its position in this regard. The customers should not be expected to voluntarily send money to the Company without some form of billing from the Company. Rendering a bill to customers at the authorized rate does not constitute agreement with the rate but acknowledges it is the Commission ordered rate and the only rate that legally can be charged.

Staff identifies an annual revenue requirement for the Company of \$25,282.41 based on information provided by Mr. Cobott and recommends Rate Design Option 3 as the Staff preferred rate design. That option allocates all costs based on the impact the customer has on the system. Property owners of undeveloped lots will be assessed a charge of \$13.00 per month. Property owners of developed lots will be assessed a charge of \$61.50 per month. The Commission finds it reasonable to adopt these rates for a proposed effective date of June 1, 2002, subject to prior adjustment based upon customer comment and further Staff and Commission analysis.

YOU ARE HEREBY NOTIFIED that the Commission has reviewed the filings of record in Case No. GNR-W-01-1. The Commission has preliminarily determined that the public interest regarding the Commission's intention to increase rates to water customers in the manner set forth above (Rate Option 3) may not require a hearing to consider the issues presented and that the issues raised by the proposed increase in rates may be processed under **Modified Procedure**, i.e., by written submission rather than by hearing. Reference Commission Rules of Procedure IDAPA 31.01.01.201-204.

YOU ARE FURTHER NOTIFIED that the Commission may not hold a hearing in this proceeding unless it receives written protests or comments opposing the use of Modified Procedure and stating why Modified Procedure should not be used. Reference IDAPA 31.01.01.203.

YOU ARE FURTHER NOTIFIED that the **deadline for filing written comments or protests** with respect to the proposed increase in rates in Case No. GNR-W-01-1 is **Thursday**,

May 23, 2002. Persons desiring a hearing must specifically request a hearing in their written protests or comments.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the deadline, the Commission will consider the matter on its merits and enter its Order without a formal hearing. If comments or protests are filed within the deadline, the Commission will consider them and in its discretion may set the matter for hearing or may decide the matter and issue its Order based on the written positions before it. Reference IDAPA 31.01.01.204.

YOU ARE FURTHER NOTIFIED that written comments concerning Case No. GNR-W-01-1 should be mailed to the Commission and to Ponderosa Terrace Estates Water Company at the addresses reflected below:

Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074

Robaer Cobott
2626 Wrenco Loop Road
Sandpoint, ID 83864

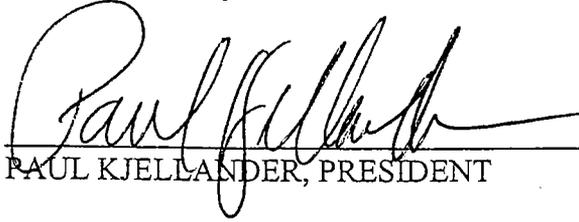
Street Address for Express Mail:

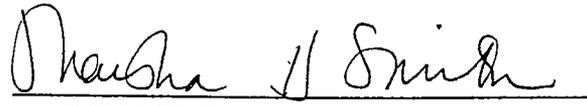
472 W. Washington Street
Boise, ID 83702-5983

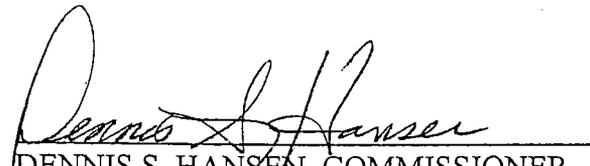
All comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at www.puc.state.id.us under the "File Room" icon. Once at the "File Room" page, select "File a Comment," fill in the case number as it appears on the front of this document, and enter your comments.

YOU ARE FURTHER NOTIFIED that the filings in Case No. GNR-W-01-1 can be reviewed during regular business hours at the Idaho Public Utilities Commission, 472 W. Washington Street, Boise, Idaho. In addition, relevant filings may be viewed by accessing the Commission's website at www.puc.state.id.us under the "File Room" icon and selecting the appropriate topic heading.

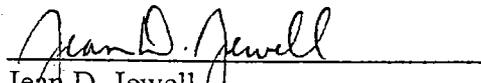
DATED at Boise, Idaho this 13th day of May 2002.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

bls/O:GNRW0101_sw6

PONDEROSA TERRACE ESTATES WATER CO.
Revenue Requirement Calculation

Net Plant Value	\$ 25,067.59
Rate of Return	12%
Return Required	<u>\$ 3,008.11</u>

Expense Items	Per Company	PUC Staff Adjustments	PUC Staff Recommendation	Comment
Phone Expense	420.00		420.00	
Accounting (Tax Prep)	487.50		487.50	
Elec Power Costs	1,997.58		1,997.58	
Postage	193.17		193.17	
Bank Charges	367.66		367.66	
Refinance Charges	1,417.20	(1,417.20)	-	One Time Non-recurring
System Repair	2,601.58		2,601.58	
Water Tests	314.78		314.78	
Chemicals & supplies	367.50		367.50	
Liab Insurance	800.90		800.90	
Auto Insurance	228.00		228.00	At \$0.345 per mile these three items produce 155 Mi./ Mo.
Auto Expense (Fuel)	252.20		252.20	
Auto Repair	164.18		164.18	
Office Supplies	129.05		129.05	
Computer Supplies	62.46		62.46	
Computer Memory Upgrade	251.70	(251.70)	-	
Water Operator Cert Tests/Fees	200.00		200.00	
Travel Exp Water Cert	88.87		88.87	
Travel Exp Water Cert	75.00		75.00	
Home Office Rent	3,600.00	(2,400.00)	1,200.00	100 Sq Ft @ \$1.00/Mo
Home Office Heat	340.55	(340.55)	-	Incl in Rent Allow
Home Office Electricity	402.00	(402.00)	-	Incl in Rent Allow
Loan Payback-Wash Mutual	5,520.00	(5,520.00)	-	Incl in Return Allowance
R Cobott Mgrmnt Fee	9,000.00	(4,840.00)	4,160.00	Arbitrary 4 Hrs/ Wk at \$20
Daily Water Testing (Fairfax)	3,600.00		3,600.00	\$10 per day
Monthly Maint (Fairfax)	1,200.00		1,200.00	\$100 per month
Monthly Profit (\$300 / Mo.)	3,600.00	(3,600.00)	-	Incl in Return Allowance
Maintenance Reserve (\$200/Mo.)	2,400.00		2,400.00	
Sub Total	<u>\$ 40,081.88</u>		<u>\$ 21,310.43</u>	
Depreciation Exp			963.87	
Return on Investment			3,008.11	
Total Revenue Requirement	<u>\$ 40,081.88</u>		<u>\$ 25,282.41</u>	

Exhibit No. 7
Case No. PTE-W-03-1
M. Fuss, Staff
4/1/03 Page 9 of 12

Attachment No. 1
Case No. GNR-W-01-1
Order No. 29024

Rate Design Options (Amended 5/10/02)
 IPUC Staff
 5/7/2002

Total Fixed Revenue Requirement	\$ 22,917.33
Consumption Sensitive Revenue Requirement	\$ 2,365.08
Total Revenue Requirement	\$ 25,282.41

Option 1: Historical PUC Rate Methodology - Deliver only to permanent customers.

	Revenue Requirement	Customer Charge	Recommended Rates	Revenue Recovery
Revenue Requirement	\$ 25,282.41			
Number of Permanent Customers		20		
Annual Water Charge Per Customer		\$1,264.12		
Monthly Water Charge Per Customer	\$ 25,281.60	\$ 105.34	\$ 105.00	\$ 25,200.00
Over (Under) Recovery	\$ (0.81)			\$ (82.41)

Option 2: Full Service Resort Rate Methodology - All Reported Property Owners Pay a Share of the Costs

	Revenue Requirement	Customer Charge	Recommended Rates	Revenue Recovery
Consumptive Sensitive Revenue Requirement	\$ 2,365.08			
Customers With Consumptive Use		20		
Annual Water Charge Per Consumptive Customer		\$ 118.25		
Monthly Water Charge Per Consumptive Customer	\$ 2,364.00	\$ 9.85		
Non-Consumptive Sensitive Revenue Requirement	\$ 22,917.33			
Total Number of Possible Water Users		87		
Annual Water Charge Per Possible Water User		\$ 263.42		
Monthly Water Charge Per Possible Water User	\$ 22,915.80	\$ 21.95		
Total Monthly Charge Per Consumptive Customer	\$ 7,632.00	\$ 31.80	\$ 32.00	\$ 7,680.00
Total Monthly Charger Per Other Possible Water User	\$ 17,647.80	\$ 21.95	\$ 22.00	\$ 17,688.00
	\$ 25,279.80			\$ 25,368.00
Over (Under) Recovery	\$ (2.61)			\$ 85.59

Exhibit No. 7
 Case No. PTE-W-03-1
 M. Fuss, Staff
 4/1/03 Page 10 of 12

Rate Design Options (Continued) (Amended 5/10/02)
 IPUC Staff
 5/7/2002

Option 3: Available Service Resort Rate Methodology - Weight Rates Based on the Number of Serviceable Customers

	Revenue Requirement	Customer Charge	Recommended Rates	Revenue Recovery
Consumptive Sensitive Revenue Requirement	\$ 2,365.08			
Customers With Consumptive Use		20		
Annual Water Charge Per Consumptive Customer		\$ 118.25		
Monthly Water Charge Per Consumptive Customer	\$ 2,364.00	\$ 9.85		
Non-Consumptive Sensitive Revenue Requirement	\$ 22,917.33			
Total Number of Serviceable Water Users		37	(Staff Attachment 4, Page 3)	
Annual Water Charge Per Serviceable Water User		\$ 619.39		
Monthly Water Charge Per Serviceable Water User	\$ 22,919.28	\$ 51.62		
Total Monthly Charge Per Consumptive Customer	\$ 14,752.80	\$ 61.47		
Remaining Revenue Requirement	\$ 10,529.61			
Total Number of Other Possible Water Users		67		
Annual Water Charge Per Possible Water User		\$ 157.16		
Monthly Water Charge Per Possible Water User	\$ 10,532.40	\$ 13.10		
Total Monthly Charge Per Consumptive Customer	\$ 14,752.80	\$ 61.47	\$ 61.50	\$ 14,760.00
Total Monthly Charge Per Possible Water User	<u>\$ 10,532.40</u>	\$ 13.10	\$ 13.00	<u>\$ 10,452.00</u>
	\$ 25,285.20			\$ 25,212.00
Over (Under) Recovery	\$ 2.79			\$ (70.41)

Exhibit No. 7
 Case No. PTE-W-03-1
 M. Fuss, Staff
 4/1/03 Page 11 of 12

Attachment No. 2
 Page 2 of 3
 Case No. GNR-W-01-1
 Order No. 29024

Ponderosa Terrace Estates Water Co.
 Serviceable Customers (Amended 5/10/02)
 IPUC Staff
 5/7/2002

Customers as Reported by the Company

Total Number of Customers That Could Use Water	87
Number of Permanent Residences	20
Difference	67

Based on Engineering Report by Taylor Engineering Consultants (6/25/99)

	Chlorination	Staff Review of Well Logs
1999 Well Capacity (Maximum)	Study 35	20 Gallons Per Minute(gpm)
Curent Customers	20	20 (Sustainable)
Additional Future Customers	92	
Additional Well Requirements	50 gpm	
Total Well Requirement For the Development	85 gpm	
Total Number of Customers on the System	127	

PUC Staff Calculations Based on Taylor Engineering Report

Average Flow Per Customer	0.6693	0.6693 gpm/customer
Additional Well Installed in 2000	5	5 gpm
Total Existing Well Capacity Available	40	25 gpm
Maximum Serviceable Customers With the Existing Well	59	37 Customers

Comment: Even though the Company indicates that up to 87 customers could possibly use the existing water system the system supply cannot support more than 37 full time customers. In addition the PUC Staff has received reports that the primary reason the additional source was developed in 2000 was because the system actually ran out of water in the fall of 2000. Staff therefor believes that the maximum capacity of the system is somewhat less than the calculated 37 customers. Without additional groundwater evaluations Staff cannot determine exactly what the maximum number of customers that can truly be served by this system. Staff assumes that the loss of water in the fall of 2000 was a condition that occured due to a significant drought in the water shed and will base rate calculations on the maximum number of 37 customers. Staff recommends additional study to determine the actual number of customers the system can sustainably serve prior to the commission lifting the restriction on permanent connections.

Exhibit No. 7
 Case No. PTE-W-03-1
 M. Fuss, Staff
 4/1/03 Page 12 of 12

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION)
INTO WHETHER PONDEROSA TERRACE) CASE NO. GNR-W-01-1
ESTATES WATER SYSTEM, INC. IS A)
PUBLIC UTILITY SUBJECT TO) NOTICE OF SCHEDULE AND
REGULATION BY THE IDAHO PUBLIC) TECHNICAL HEARING
UTILITIES COMMISSION)
) NOTICE OF INTERVENTION
) DEADLINE
)
) NOTICE OF PUBLIC HEARING
)
) NOTICE OF EXTENDED PUBLIC
COMMENT DEADLINE
)
) ORDER NO. 29046

On May 14, 2002, the Commission issued a Notice of Proposed Increase in Rates, Modified Procedure and Comment/Protest Deadline proposing to adopt rates that collect an annual revenue requirement for Ponderosa Terrace Estates Water System, Inc. (Ponderosa; Company) in the amount of \$25,282.41. Order No. 29024 at 6. If approved, these rates would allocate all costs based on the impact the customer has on the system. Based upon customer comment and further analysis, the Commission finds it reasonable in this Order to adopt interim rates effective June 1, 2002 pending the results of the technical and public hearings scheduled for June 20, 2002 in Sandpoint.

BACKGROUND

On September 13, 2001, the Commission issued Order No. 28845 finding that Ponderosa was operating in such manner as to fall within the Commission's jurisdiction. See *Idaho Code* §§ 61-124; 61-125; and 61-129.

Robaer Cobott, owner of Ponderosa, operates a water system located south of Sandpoint and southeast of the community of Sagle in Bonner County, Idaho. There are approximately 20 full-time customers connected to the system and a total of approximately 87 lots within the area served by the water system.

NOTICE OF SCHEDULE AND TECHNICAL HEARING
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ORDER NO. 29046

On November 28, 2001, the Commission issued Order No. 28903 establishing a \$20 per month interim rate based upon the statewide average rate for small flat-rate water systems. That Order also scheduled a Show Cause hearing for December 17, 2001 in Sandpoint. The purpose of the hearing was to permit Mr. Cobott to show cause (if any) why the \$20 per month flat month rate established by Order No. 28903 was not reasonable and to take public comment from customers regarding the water service. When it became known that Mr. Cobott would likely be unable to attend the hearing, the Commission vacated the Show Cause hearing. Order No. 28917. In its Order vacating the hearing the Commission issued Certificate of Convenience and Necessity No. 393 to the Company and reiterated the findings and directives of its prior Orders.

On May 7, 2002, the Commission received a letter from Mr. Cobott stating that the Ponderosa Terrace Estates Water Company is going to have to go out of business because the rates set by this Commission were too low. He stated that revenues are down 90 to 95%. He had not and would not mail bills to customers with the \$20 per month charge approved by the Commission. He did not agree with that rate and would not send a bill that makes it appear he accepts the Commission's authorized rates. Because they did not receive bills, we understand that some customers have not paid for service from November 2001 through May 2002.

INTERIM RATES

In response to the Notice of Proposed Increase in Rates (Order No. 29024), the Commission received comments from the Commission Staff,¹ Ponderosa, and several Ponderosa customers regarding what rates should be implemented for water service. These comments are discussed in greater detail below.

A. Commission Staff Comments

After reviewing the comments received from both the Company and its customers, Staff stood by its comments contained in its May 10, 2002 Decision Memorandum. However, Staff made minor modifications to the total revenue requirement and offered additional rate design options based upon updated customer information. Staff Comments at 2.

¹ The Commission Staff may participate as an independent party in any proceeding. IDAPA 31.01.01.37-38. The Staff should not be confused with the Commission. The Commission's duty is to regulate every utility and set rates that are reasonable to both the utility and customers. *Idaho Code* §§ 61-501 and 61-502.

1. **Revenue Requirement:** Staff offered two modifications to Ponderosa's revenue requirement. First, Staff suggested increasing the water testing expense from \$314.78 to \$1,500 per year to reflect the normalized annual water testing cost, which is estimated at \$750 for each of the two wells. Second, Staff recommended that the labor allowance for Daily Water Testing performed by Mr. Fairfax be reduced from \$3,600 to \$1,800 to reflect the free electricity Mr. Fairfax was receiving from Ponderosa as compensation valued at \$150 per month. These two modifications reduce the total annual revenue requirement by \$614.78 from \$25,282.41 to \$24,667.63.

2. **Definitions:** To devise customer classes for the rate design, Staff recommended based on input from Ponderosa and its customers that the following definitions be used by the Commission:

▪ **Permanent Residence** – Staff proposed using the same definition as provided by Idaho Code for “primary dwelling place.” *Idaho Code* § 63-701(9)(a). For purposes of this case, the primary dwelling place is the single place which the customer has his true, fixed and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. The primary dwelling place is where the claimant resides on January 1 and:

- (i) At least six (6) months during the prior year; or
- (ii) The majority of the time the customer owned the dwelling if owned by the customer more than one (1) year; or
- (iii) The majority of the time after customer first occupied the dwelling if occupied by the customer for less than one (1) year.

▪ **Full Time Customer** – The water service is to the customer's permanent residence.

▪ **Part Time Customer** – The water service is provided to an improved lot with a dwelling and the dwelling is not considered the customer's permanent residence.

▪ **Dwelling** – Any structure that can provide shelter and is located on a lot or parcel for more than 15 days per month or 6 months per year.

▪ **Inactive Service** – Water service is provided to the lot or parcel but is not readily accessible (the service is underground).

- Active Service – Water service is provided to the lot or parcel and readily accessible (active service provides above ground access to water).
- Former Customer – Water service is not currently or has never been provided to the lot or parcel, even though the facilities may have been provided at one time.
- Combined Lot – Multiple lots were considered as one when the lots were considered legally combined by Bonner County.

3. Rate Design: Based on the above definitions, Staff performed a customer inventory, which is summarized below:

<u>Customer Class</u>	<u>Number of Customers</u>
Full Time Customers	19
Part Time Customers	11
Inactive Service Customers	18
Active Service Customers	33
<u>Former Customers</u>	<u>6</u>
Total Number of Customers	87

Staff continued to believe that rate Option 3 (Available Service Resort Rate Methodology) is the most appropriate rate option for the Company because it is fairly simple to apply, collects the suggested revenue requirement (\$24,667.63) and sends the appropriate price signal to customers. Staff preferred this method to Options 1 (Historical PUC Rate Methodology) and 2 (Full Service Resort Rate Methodology) previously proposed. Staff Comments at 5.

Based on the new information obtained from the Company and customers, Staff submitted two additional rate design options for the Commission's consideration. Staff Option 4 (Multiple Customer Class Resort Rate Methodology) expanded upon Staff's recommended Option 3 to develop rates reflective of the many different customer classes on the system. Staff found the calculations to be cumbersome but reflective of the additional information gained by Staff's continued investigation. Staff/Customer Option 5 (Compromised Customer Class Rate Methodology) was Staff's attempt to provide the Commission with a compromise between the customers' stated desire for rates and Staff's Option 4. While noting that this option is somewhat arbitrary, Staff stated that it would collect the revenue requirement and is based fundamentally on Staff's recommended Option 3 and the expanded Option 4.

While Staff's five rate design options are discussed in greater detail in its comments and its May 10, 2002 Decision Memorandum, the following table is a summary of Staff's rate option calculations and the rates proposed by customer petition.

Ponderosa Terrace Estates Water System								
Summary of Monthly Rates								
Customer Class	Number of Customers	Staff Rate Options				Staff/Customer	Customer Rate Options	
		Staff #1	Staff #2	Recommended Staff #3	Staff #4	Compromise Option #5	Customer Option #1	Customer Option #2
Full Time Customer	19	\$ 108.00	\$ 28.00	\$ 56.50	\$ 58.00	\$ 49.00	\$ 40.00	\$ 30.00
Part Time Customer	11	\$ -	\$ 28.00	\$ 56.50	\$ 29.00	\$ 29.00	\$ 40.00	\$ 30.00
Active Service Customer	33	\$ -	\$ 21.50	\$ 6.50	\$ 14.00	\$ 19.00	\$ 20.00	\$ 15.00
Inactive Service Customer	18	\$ -	\$ 21.50	\$ 6.50	\$ 7.00	\$ 10.00	\$ 10.00	\$ 10.00
Former Customer	6	\$ -	\$ 21.50	\$ 6.50	\$ 7.00	\$ -	\$ -	\$ -
	87							
Total Revenue		\$ 24,624	\$ 24,786	\$ 24,786	\$ 24,612	\$ 24,684	\$ 24,480	\$ 18,900
Over (Under) Recovery		\$ (43.63)	\$ 118.37	\$ 118.37	\$ (55.63)	\$ 16.37	\$ (187.63)	\$ (5,767.63)

4. **Consumer Issues.** Staff restated the need for the Company to adopt and implement the Commission's Utility Customer Relations Rules (UCRR), the Commission's Utility Customer Information Rules (UCIR), and an accounting system consistent with the information required by the Commission's annual report for small water companies. Once rates have been set by the Commission, the Company must file tariffs or schedules of those rates and charges. Staff indicated its willingness to assist the Company in preparing the necessary tariffs.

5. **Former Customers.** Staff believes that former customers that were either removed from the system or chose to leave from the system may wish to once again become customers if Ponderosa is now regulated. Staff recommended that the Company be directed to provide a grace period for all former customers to become members of some customer class. Staff further recommended that the Company be directed to post and justify the rates for any services that are offered so that the former customers can make educated decisions whether to take service from Ponderosa.

If a customer who has left the system either by choice or by not choosing to rejoin the system wishes to reconnect to the system in the future, Staff recommended that the customer be required to pay a hook-up fee. Because the customer would not have paid anything to maintain

the system, Staff suggested that a hook-up fee for new customers be established in the amount of \$2,500 for any customer wishing to reconnect after the grace period.

6. Disconnecting Customers from the System. Staff believes the Company should be allowed to terminate service to (physically disconnect) customers if the following two conditions are met: 1) the Company has provided proper notice for each billing cycle and an absolute final notice of removal from the system 60 days prior; and 2) the customer is delinquent in payment for at least 12 consecutive months. After these two conditions are met, Staff believes the Company should be allowed to terminate a customer's service by physically disconnecting them from the system. The customer would then be subject to a new hook-up fee of \$2,500 if they wished to connect to the system at any time in the future.

7. Reconnection Fee. When a customer voluntarily shuts off service or is temporarily disconnected for a period not more than twelve (12) months, Staff recommended that a nominal reconnection fee of \$25.00 be established for the Ponderosa Estates Water System.

8. Connection Restrictions. In Order No. 28845, the Commission restricted all new connections to the system. Staff previously provided an analysis indicating that system capacity was limited to 37 customers. However, less than 37 full-time and part-time customers are currently on the system. Thus, Staff recommended lifting the restriction and allowing a maximum of 37 full-time and part-time customers to connect to the system. If the Company wishes to connect more than the 37 full-time and part-time customers, it should provide either an additional source of water or an analysis by a Registered Engineer indicating that more than 37 full-time and part-time customers can be adequately served by the system.

B. Ponderosa Comments

On May 21, 2002, the Commission received a letter from Robaer Cobott labeled "Protest." While demanding a hearing in front of a Judge that is not affiliated with the Commission, Mr. Cobott noted his objections to several items discussed in Order No. 29024.

First, he objected to the proposed \$80/week salary and stated that he will accept nothing less than \$1,000/month. Second, Mr. Cobott did not accept the 12% allowed return on his investment and wanted "a return of 20% or no deal." More specifically, he wanted his investment paid back and a \$300/month profit on that investment. Third, Mr. Cobott demanded the monthly

maintenance fee paid to Larry Fairfax be increased to \$3,600/year. In his words, "allow this or forget this system."

Mr. Cobott also wants the water test expenses increased from \$314.78 to \$1,500 per year. As discussed above, Staff agreed that this is necessary. Because he had to mortgage his house to get the money to put in a second well as required by DEQ, Mr. Cobott demanded the \$5,520 mortgage expense. Furthermore, Mr. Cobott stated that the excavator located on the property is owned by him personally but only used for the water system. Thus, he wants \$100/month rent for its use and that the utility be responsible for all maintenance and repair costs.

Because Staff believes the Ponderosa system could accommodate 37 full time residents, Mr. Cobott wants the Commission's approval for 37 full time residents. He also noted that the land on which the water system is located belongs to him personally. Because he has to pay for property taxes and maintenance, Mr. Cobott requests \$300/month rent to be paid by Ponderosa to him personally.

Finally, Mr. Cobott's May 21 letter took exception to the manner in which the Commission "talks about myself and my company" in Order No. 29024. He stated that "you will adjust your finding in my behalf or you will have to find another option to solve the problems with this system." Offended by the \$80/week salary for an estimated four (4) hours of work, Mr. Cobott stated that there will be no system operator after the 4 hours per week are expended and customers will have to go without. In his words, "I will not work for nothing and I'm going to get mine first, I'm not going without anymore."

Two days later, the Commission received a faxed letter listing a number of questions posed by Mr. Cobott. He requested information on how to collect back bills owed by customers prior to the assertion of jurisdiction by the Commission on November 28, 2001. Mr. Cobott also wanted to know how he could collect from customers that have not paid since that date. Furthermore, he wished to know if he could turn off their water when the new program starts.

On May 27, Mr. Cobott on behalf of Ponderosa sent two additional letters by facsimile. While reiterating his previous concerns, he demanded that "this Case No. GNR-W-01-1 go before a Judge and Jury." He disagreed with the water rates previously ordered and the different conditions for disconnections and hook-ups. Mr. Cobott also indicated that he would not

allow a customer with a past-due bill of over 30 days to receive water service. The second FAX informed the Commission that Mr. Larry Fairfax (the maintenance person) had quit and would no longer maintain the system. To maintain the system in place of Mr. Fairfax, Mr. Cobott stated that his salary must be increased to \$3,000 per month with additional money to pay for car mileage and insurance since he lives 60 miles round trip from the water system.

C. Customer Comments

1. **Joint Letter.** On May 20, 2002, the Commission received a letter signed by 23 customers that detailed a proposal for the Commission's consideration. They would like the water rates divided into four categories that would recover \$14,621.30 in annual operating costs plus \$1,754.56 for a 12% rate of return. The table below summarizes their proposed rates and classes versus what was proposed by the Commission Staff:

CLASS	STAFF PROPOSED RATES	RESIDENT PROPOSED RATES
Full Time Users	\$40.00/month	\$30.00/month
Live Hydrant	\$20.00/month	\$15.00/month
No Water Pipe above Ground	\$10.00/month	\$10.00/month
No Water Service	\$0.00/month	\$0.00/month

These residents also suggest the Commission decrease allowances for the following expenses:

- Phone: Should be reduced from Staff-proposed \$420/annually to \$146.16 because Mr. Cobott's phone number covers two businesses plus his home phone.
- Power: Should be reduced from Staff-proposed \$1,997.58 annually to \$1,500.00 because Larry Fairfax's numbers "do not add up."
- System Repair: The \$2,601.58 suggested by the Staff should be eliminated entirely since it is a duplication of the \$2,400.00 Maintenance Reserve.
- Home Office Rent: The \$1,200.00 suggested by the Staff should be reduced to \$600.00 since Mr. Cobott is running two businesses out of the same facility (his home).

- Mr. Cobott's Management Fee: The residents suggest reducing this \$4,160 expense to \$3,000 because Mr. Cobott has spent little time on the business except for the current two years and dealing with the IPUC and EPA. They note that Mr. Cobott has often skipped billing cycles and doesn't return their phone calls.
- Daily Water Testing/Monthly Maintenance: While the Staff suggested \$3,600 and \$1,200 for these expenses respectively, the residents recommend a combined expense of \$2,280. This amount includes Larry Fairfax's \$150.00 monthly retainer and free water equaling approximately \$40.00 per month. The residents question whether water testing is done daily since a high variance of chlorine exists in the water and Ponderosa has run out of chlorine at least once.

2. Individual Letters. The Commission also received several individual letters. One customer agreed with Staff Rate Option No. 3 and found it to be "very reasonable." However, she stressed the need for protection from Mr. Cobott's threatened actions to disconnect customers, place liens on their property and charge \$1,500 in reconnection fees. She also wished to know if customers could pay rates through the court to prevent him from taking their property.

Another customer requested definition words like "full time occupancy" and "developed" before the Commission issues another Order. Moreover, he would like an explanation for why the maximum number of customers that can be served is only 37. This customer was also concerned that at least four customers are using the system who are not part of the platted subdivision. He prefers Rate Option No. 2 with full time users having a water use meter and pay an additional fee if they use more than 200 gallons/day to be put in escrow to fund an additional well.

Although she had the community water to her residence shut off two years ago when faced with significant concerns about water quality, availability and customer service, a third resident supported a 4-tiered rate scale proposed by the residents in their meeting with the Staff. She also believes that residents there would be best served by creation of a water district/home owners association that could hire Larry Fairfax to build and maintain the system. Finally, this customer requested that the Commission offer Mr. Cobott some specific instruction as to how to carry out his billing and customer service responsibilities.

A fourth customer stated that he believed an excellent first improvement to the system would be the installation of water meters to build water conservation into the fee schedule and allowed for tiered rates based on season and usage. This customer did not support the tiered schedule proposed and supported by the customer petition. He found the proposal to be complex and would benefit high consumptive users at the expense of other users and the owner.

A fifth customer voiced her frustration over being held "hostage" by Ponderosa when "we all would have been satisfied with \$45.00" a month. In short, she does not blame some of her neighbors for putting in their own wells.

D. Commission Findings

Upon reviewing the record and the comments received thus far from Staff, the Company and customers, the Commission finds that a technical and public hearing are necessary to fully develop the record. Although the specifics of the hearings are set out below, the Commission wishes to specifically address two issues: 1) what rates shall be collected pending a final Order issued after the hearing; and 2) billing and disconnection issues.

1. **Interim Rates:** The financial information received thus far by the Commission indicates that Ponderosa should be allowed to collect rates greater than the \$20 interim rate previously set by Order No. 28903. The Commission finds that Rate Design Option No. 3 will appropriately allocate interim costs based on the impact the customer has on the system. Until a final Order is issued in this case, full-time and part-time customers (as defined above) shall pay a flat rate of \$56.50 per month. Ponderosa shall also charge active service, inactive service and former customers (as defined above) \$6.50 per month. The Commission further finds it reasonable to adopt these interim rates effective June 1, 2002 pending the results of the technical and public hearings scheduled for June 20, 2002 in Sandpoint.

2. **Billing and Disconnection for Service Since September 2001.** On September 13, 2001, the Commission found that Ponderosa was providing utility service that falls within the Commission's jurisdiction. Order No. 28845. As such, the Commission's Customer Relations Rules are applicable to both the Company and customers. IDAPA 31.21.01.

Although Commission Rule 201 states that bills shall be issued on a regular basis, it is the Commission's understanding that Ponderosa did not bill customers for water service for the 6

months between November 2001 and April 2002. IDAPA 31.21.01.201. The Commission's Order No. 28903 established an interim rate of \$20 per month and customers may still owe Ponderosa \$20 per month for each of these 6 months. Rule 204.03 provides that customers who have not been billed shall be given the opportunity to make payment arrangements over the telephone, by mail, or in person under Rule 313 on the amount due. At the customer's option, the term of the payment arrangement may extend for the length of time (six months) that the customer was not billed. IDAPA 31.21.01.204.03. For example, residential customers who did not pay Ponderosa for water service for those 6 months shall pay \$56.50 for June 2002 water service plus \$20 toward the previously unbilled amount (\$120) owed to Ponderosa. Customers may have up to 6 months to repay the full \$120.

If the customer fails to pay the current month owed and/or the arrearage portion (\$20 per month for each of the next 6 months) then due, Ponderosa may disconnect the customer under Rule 302 for failure to pay an undisputed delinquent bill. If the utility intends to terminate service under Rule 302, the utility shall mail a written notice of termination to the customer at least seven (7) calendar days before the proposed date of termination. IDAPA 31.21.01.304.01. Furthermore, this written termination notice must contain the information required by Rule 305. At least twenty-four (24) hours before actual termination, the utility must diligently attempt to contact the customer affected, either in person or by telephone, to advise the customer of the proposed action and steps the customer may take to avoid or delay termination. IDAPA 31.21.01.304.02. This oral notice must contain the same information required by Rule 305.

The Commission would also note that because regulated utilities like Ponderosa can use disconnection as a collection tool, regulated utilities are generally prohibited from filing liens against property to secure the amounts owed.

3. Billing and Disconnection for Service Prior to September 2001. The Commission understands that some customers have arrearages for unpaid bills issued before September 2001. We encourage the Company and its customers to reach an agreement regarding charges for water prior to September 2001. To prevent any misunderstanding on the customer's account, any amounts owing prior to September 2001 should not be included in the current bill. Of course, Ponderosa may seek collection by other means – including small claims court. Because

the Company has judicial remedies available, Ponderosa shall not disconnect for non-payment of amounts owed prior to the Commission asserting jurisdiction over the Company.

NOTICE OF INTERVENTION DEADLINE

YOU ARE HEREBY NOTIFIED that persons desiring to intervene in these matters for the purpose of presenting evidence or cross-examining witnesses at hearing **must file a Petition to Intervene** with the Commission pursuant to this Commission's Rules of Procedure 72 and 73, IDAPA 31.01.01.072 and -.073. Persons intending to participate at the hearings must file a Petition to Intervene **on or before June 12, 2002**. Persons seeking intervenor status shall also provide the Commission Secretary with their electronic mail address to facilitate future communication in these matters.

YOU ARE FURTHER NOTIFIED that persons desiring to present their views without parties' rights of participation and cross-examination are not required to intervene and may present their comments without prior notification to the Commission or the parties.

NOTICE OF SCHEDULE AND TECHNICAL HEARING

YOU ARE FURTHER NOTIFIED that the Commission specifically seeks testimony that addresses the following issues:

1. Rate designs that recover Ponderosa's reasonable expenses from defined customer classes;
2. The dollar amount necessary to appropriately compensate Ponderosa for the administration, maintenance and operation of its water company;
3. The appropriate rate of return to be earned by Ponderosa;
4. What amount Ponderosa should pay Mr. Cobott for mortgaging his home to finance a second well as required by the Department of Environmental Quality;
5. Whether the restriction on new hook-ups should be lifted and how many future hook-ups should be allowed given limited system capacity;
6. The appropriate dollar amount necessary for water testing;
7. What amount Ponderosa should pay Mr. Cobott for the property taxes and maintenance expenses he pays for the land on which the water system is located;

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8. What amount Ponderosa should pay Mr. Cobott for use of his personal equipment and maintenance thereof; and
9. What fees are appropriate for Ponderosa to charge customers who hook-up to the system, or who voluntarily disconnect or are disconnected for non-payment.

YOU ARE FURTHER NOTIFIED that the Commission adopts the following procedural schedule:

- | | |
|---------------|---|
| June 7, 2002 | Deadline for Commission Staff to prefile direct testimony. Staff shall serve its testimony on Ponderosa via overnight delivery no later than this date. |
| June 12, 2002 | Deadline for filing intervention. |
| June 17, 2002 | Deadline for Ponderosa and intervenors to prefile direct testimony. The Commission must receive testimony by standard or electronic mail, or via overnight delivery on this date. |
| June 20, 2002 | Technical hearing at 1:00 p.m. at the Edgewater Resort, located at 56 Bridge Street in Sandpoint. Staff may offer "live" rebuttal testimony, if necessary. |

The prepared testimony and exhibits must conform to the requirements of Rules 266 and 267 of the Commission's Rules of Procedure. IDAPA 31.01.01.266-.267.

YOU ARE FURTHER NOTIFIED that all proceedings in these case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and that the Commission may enter any final Order consistent with its authority under Title 61 and specifically *Idaho Code* §§ 61-129, 61-301, 61-305, 61-501, 61-1503 and 61-1504.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

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NOTICE OF PUBLIC HEARING

YOU ARE FURTHER NOTIFIED that the Commission has scheduled a **public hearing** regarding the issues in Case No. GNR-W-01-1 on **THURSDAY, JUNE 20, 2002, 1:00 P.M. AT THE EDGEWATER RESORT, LOCATED AT 56 BRIDGE STREET IN SANDPOINT.** The public hearing will begin at 6:00 p.m.

The Commission will hold a public hearing to receive public testimony regarding customer comments, concerns and recommendations. Customers, local government leaders, and other interested persons are encouraged to testify.

YOU ARE FURTHER NOTIFIED that all hearings and public workshops in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0338 (Telephone)
(208) 334-3762 (FAX)
E-Mail: jjewell@puc.state.id.us

NOTICE OF EXTENDED PUBLIC COMMENT DEADLINE

YOU ARE FURTHER NOTIFIED that in addition to the public hearing, the Commission extends the comment deadline to solicit further written comments regarding customer comments, concerns and recommendations. Any person desiring to state a position on the items at issue in this case may file a written comment in support or opposition with the Commission **on or before Friday, June 21, 2002.** The Commission has extended the comment period beyond the time previously provided in Order No. 29024 to give the public additional time to provide written comment. IDAPA 31.01.01.202.02.

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YOU ARE FURTHER NOTIFIED that the comment must contain a statement of reasons supporting the comment. Written comments concerning the issues in Case No. GNR-W-01-1 shall be mailed to the Commission and to Ponderosa Terrace Estates Water Company at the addresses reflected below:

Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83720-0074
E-mail: jjewell@puc.state.id.us

Robaer Cobott
2626 Wrenco Loop Road
Sandpoint, ID 83864

Street Address for Express Mail:

472 W. Washington Street
Boise, ID 83702-5983

All comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at www.puc.state.id.us under the "File Room" icon. Once at the "File Room" page, select "File a Comment," fill in the case number as it appears on the front of this document, and enter your comments.

YOU ARE FURTHER NOTIFIED that the filings in Case No. GNR-W-01-1 can be reviewed during regular business hours at the Idaho Public Utilities Commission, 472 W. Washington Street, Boise, Idaho. In addition, relevant filings may be viewed by accessing the Commission's website at www.puc.state.id.us under the "File Room" icon and selecting the appropriate topic heading.

ORDER

IT IS HEREBY ORDERED that until a final Order is issued in this case, full-time and part-time customers (as defined above) shall pay a flat rate of \$56.50 per month. Ponderosa shall also charge active service, inactive service and former customers (as defined above) \$6.50 per month. These interim rates are effective June 1, 2002.

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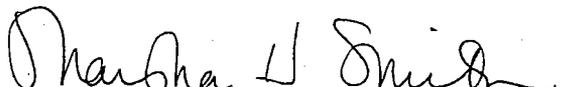
IT IS FURTHER ORDERED that the Commission adopts the scheduling, hearing and public comment dates set out above. Parties shall adhere to the schedule set out above.

IT IS FURTHER ORDERED that persons desiring to intervene in these cases for the purpose of presenting evidence or cross-examination at hearing shall file a Petition to Intervene with the Commission no later than June 12, 2002.

IT IS FURTHER ORDERED that the Company comply with the rules for disconnection of customers with past due bills as set forth above in this Order and in the Commission's Rules.

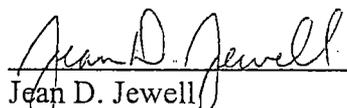
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 6th day of June 2002.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

O:GNRW0101_in

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE INVESTIGATION)
INTO WHETHER PONDEROSA TERRACE) CASE NO. GNR-W-01-1
ESTATES WATER SYSTEM, INC. IS A)
PUBLIC UTILITY SUBJECT TO)
REGULATION BY THE IDAHO PUBLIC) ORDER NO. 29086
UTILITIES COMMISSION)
_____)**

On June 6, 2002, the Commission adopted interim rates for Ponderosa Terrace Estates Water System, Inc. effective June 1, 2002 pending the results of the technical and public hearings held June 20, 2002 in Sandpoint. Order No. 29046. Based upon the record created at these hearings, additional customer comment and further analysis, the Commission now adopts an annual revenue requirement for Ponderosa in the amount of \$26,604. The monthly rates we approve are \$48 for Full- and Part-Time customers and \$25 for Active Service customers. These rates shall become effective for service rendered on or after August 1, 2002.

I. BACKGROUND

Robaer Cobott, owner of Ponderosa, operates a water system located south of Sandpoint and southeast of the community of Sagle in Bonner County, Idaho. Approximately 29 full- and part-time customers are connected to the system. There are 33 Active Service customers—those customers with above ground access to water. A total of 87 lots or parcels are within the area served by the water system. In Order No. 28845 issued on September 13, 2001, the Commission found that Ponderosa was operating in such manner as to fall within the Commission's jurisdiction. See *Idaho Code* §§ 61-124; 61-125; and 61-129.

On November 28, 2001, the Commission issued Order No. 28903 establishing a \$20 per month interim rate (the first interim rate) based upon the statewide average rate for small, flat rate water systems. That Order also scheduled a Show Cause hearing for December 17, 2001 in Sandpoint. The purpose of the hearing was to permit Mr. Cobott to show cause (if any) why the \$20 per month flat month rate established by Order No. 28903 was not reasonable and to take public comment from customers regarding the water service. When it became known that Mr. Cobott would likely be unable to attend the hearing, the Commission vacated the Show Cause hearing. Order No. 28917. In its Order vacating the hearing the Commission issued Certificate

of Convenience and Necessity No. 393 to the Company and reiterated the findings and directives of its prior Orders.

On May 7, 2002, the Commission received a letter from Mr. Cobott stating that the Ponderosa Terrace Estates Water Company was going to have to go out of business because the rates set by the Commission were too low. He claimed that revenues were down 90 to 95%. He stated that he had not and would not mail bills to customers with the \$20 per month charge approved by the Commission. He did not agree with the interim rate and would not send a bill that made it appear as though he accepted the Commission's authorized rates. Because they did not receive bills, some customers did not pay for service from December 2001 through April 2002.

On May 14, 2002, the Commission issued a Notice of Proposed Increase in Rates, Modified Procedure and Comment/Protest Deadline proposing to increase the first interim rates so that they produce an annual revenue amount for Ponderosa of \$25,282.41. Order No. 29024 at 6. Prior to the May 23 comment deadline, the Commission received comments from the Commission Staff,¹ Ponderosa, and several Ponderosa customers regarding what rates should be implemented for water service. Those comments were discussed in greater detail in Order No. 29046.

Based upon these comments and further analysis, the Commission found it reasonable to adopt a second set of interim rates - \$56.50 for full- and part-time customers and \$6.50 for the remaining customer classes effective June 1, 2002. Order No. 29046 at 10. The Commission also scheduled a technical and public hearing in Sandpoint on June 20, 2002 to gather additional evidence on which to establish final rates. *Id.* at 13-14. The Commission did not receive any petitions requesting intervention. At the conclusion of the public hearing, the Commission orally extended the public comment deadline to June 27, 2002 to accommodate customers who wished to submit written statements. Tr. at 317.

II. REVENUE AND EXPENSES

The Commission took considerable evidence at the technical hearing regarding the total amount of annual revenue necessary to operate the utility. Staff Witness Robert Smith advocated an annual revenue requirement of \$26,992.29. Tr. at 10. Although Ponderosa did not

¹ The Staff should not be confused with the Commission. The Commission's duty is to regulate every utility and set rates that are reasonable to both the utility and customers. *Idaho Code* §§ 61-501 and 61-502. The Commission Staff may participate as an independent party in any proceeding. IDAPA 31.01.01.37-38.

recommend a total revenue amount to be collected, it appears from the Company's testimony that Ponderosa sought a total revenue requirement of approximately \$31,600.

Commission Findings: As noted by Mr. Cobott, the water system thus far has not received enough revenue to keep up with the bills and expenses. Tr. at 177. In reviewing the record to establish a revenue requirement that will adequately fund Ponderosa's expenses, the Commission considered a variety of factors that influence the amount of revenue required to fund the ongoing operation of the Company.

Each small water company is unique in its physical assets and liabilities. The Ponderosa Terrace Estates Water Company is a small system with two supply wells with a combined capacity of 25 gallons per minute, 10,000 gallons of storage, and a looped unmetered distribution system. Tr. at 76. The system is approximately 30 years old. Tr. at 24.

The Commission also considered the limited customer base over which the expenses can be spread. Ponderosa currently has 81 customers connected to the system, of which 29 are full- or part-time customers. Tr. at 74. The Commission reviewed the revenue requirements of similarly situated small water companies to establish a range of reasonable options. Small northern Idaho water utilities range from nearby Algoma Water Company in Sagle, which has 31 customers and a \$6,459 annual revenue requirement, to Spirit Lake East Water Company in Spirit Lake, which has 237 customers and a \$47,828 annual revenue requirement. Staff Exhibit 102.

In establishing a revenue requirement, we consider the financial needs of the Company and the ability of customers to pay. Our goal is to maintain Ponderosa's financial viability without setting rates so high that its few customers are forced to seek alternate water supply sources. With these principles in mind and based on the evidence, the Commission finds it reasonable to authorize Ponderosa to recover \$26,604 in annual revenue from its ratepayers. This amount will allow Ponderosa to recover its prudent operating costs, fairly compensate the Company for its labor expenses, and allow Ponderosa to earn a fair rate of return on the capital invested in the water system. If Ponderosa finds that it is under-collecting the authorized revenue amount, we encourage the Company to notify the Commission so that we may review the rate design and/or fees.

It is not the Commission's intent to micro-manage the operating expenditures of Ponderosa. Although we have not itemized how much revenue should be allocated to each of the

various expenses incurred by Ponderosa, we expect Ponderosa to use due diligence to insure that expenditures are made only for appropriate water company activities. As the owner and operator of Ponderosa, Mr. Cobott shall use his own discretion to prudently allocate the funds generated by rates in a manner that benefits the ongoing operation of the Company. That said, we strongly encourage Ponderosa to set aside \$2,400 maintenance reserve (\$200/month) in a separate account as recommended by Staff to fund system repair and future upgrades.

A. Rate of Return

One contested revenue requirement issue was the overall rate of return Ponderosa should receive for its capital investment. Mr. Cobott testified that most small businesses require a 15% return in order to justify the capital expenditure. Tr. at 160. In contrast, Staff witness Smith recommended a 12% rate of return. Tr. at 18-19. He further stated that the Commission has traditionally allowed small water utilities a higher rate of return than larger utilities because these small companies are inherently more risky. *Id.* In light of this risk premium, the Commission has allowed a 12% rate of return on equity in recent years as a fair return for small water companies. *Id.*

Commission Findings: The Commission continues to find that 12% is a reasonable rate of return for small water companies in general and Ponderosa in particular – especially given the low interest rates available during the past few years. This finding, which includes the risk premium discussed by Staff witness Smith, is consistent with past Commission Orders that authorized a 12% rate of return for small water companies.²

Although the Commission generally applies a 12% rate of return for small utilities, we have previously rewarded outstanding customer service by incrementally increasing a company's rate of return. For example, in 1985 the Commission granted Boise Water Company a .25% premium on its common equity return in recognition of Boise Water's exemplary management, customer relations and plant addition practices. Order No. 19902. In contrast, the Commission allowed General Telephone Company in 1987 to collect only 11.5% of the 12% rate of return on equity that the Commission found to be otherwise reasonable until General Telephone satisfactorily resolved problems resulting from confusing monthly billing statements and inaccuracies in its rural charges. Order No. 21473 at 10-11.

² See Case Nos. CAP-W-99-1 (Capitol Water, O.N. 26247), FLS-W-97-1 (Falls Water, O.N. 27110), FLS-W-01-1 (Falls Water, O.N. 28907), GNR-W-96-1 (Valley View, O.N. 27328), MCG-W-98-1 (McGuire Estates, O.N. 27658), TRH-W-95-1 (Troy Hóffman, O.N. 28264) and WSM-W-95-2 (Warm Springs Mesa, O.N. 26081).

We further find that a return lower than 15% is warranted given the public testimony that numerous customer telephone calls went unreturned. Tr. at 136, 139, 144, 285-6, 316. The Commission hopes that by providing the Company the opportunity to increase its future rate of return by providing exceptional customer service, such communication problems will cease to exist.

B. Rent for Use of Water System's Land

In comments dated May 21, 2002, Mr. Cobott suggested that Ponderosa should pay him \$300/month rent because he personally owns the six acres on which the system's wells and pump houses are located. Staff Exhibit 103 at 2. Staff recommended that this rental expense be disallowed because the real estate in question was "an integral part of the water system dedicated to public service since before its purchase." Tr. at 21. Moreover, Staff witness Smith asserted that the land was jointly conveyed with the water company facilities to Mr. Cobott rather than separately conveyed. *Id.* The real estate contract in Staff Exhibit 104 refers to all "well sites." Tr. at 122. Mr. Cobott indicated that while the well site is 100' by 100', it does not include the tanks or pipes necessary to operate the system. *Id.* Furthermore, he stated that the real estate contract only identified the property as dedicated to the well per the requirements of state or local government, not dedicated to Ponderosa. *Id.* Mr. Cobott also indicated that as owner of the property, he personally pays the property taxes owed on the land – not Ponderosa. Tr. at 123.

Commission Findings: To decide this issue, the Commission reviewed the underlying real estate contract included in the record as Exhibit 104. This document evidenced the sale of a water system in 1986 by Mr. Cobott's in-laws, Bernard and Daisy Reynolds, to Robaer Cobott and Zaderea Raphael in exchange for \$100,000. It states that:

the following described real estate, situate in the County of Bonner, State of Idaho, more particularly described as follows, to wit: . . . a water system servicing the Ponderosa Terrace Estates . . . with all equipment, deeded well sites, water tank sites, pipe, hydrants, spigots, electrical components, pumps, water tanks, wells, easements & water rights.

Exhibit 104 at 1. We find the contract unambiguously conveyed the water system to Mr. Cobott and Zaderea Raphael. The Commission further finds that the contract's reference to "deeded well sites" indicates the land where the wells are located was transferred with, and as part of, the Ponderosa water system. Because the plain meaning of these words indicate that real property was conveyed in the contract, the Commission does not find it appropriate for Ponderosa to pay

Mr. Cobott rent for use of land that the contract indicates was included as part of the water system. The property tax for the well sites, easements, and other real estate is properly an expense of the utility.

III. RATE DESIGN

A. Monthly Rate Methodologies

During the course of the public comment periods and technical hearing, the Commission was presented with a variety of rate design options. These rate designs are briefly described as follows:

Ponderosa: Mr. Cobott testified that rates should cover the expenses that the Commission determines are appropriate, but that the rate design itself does not matter so long as the rate covers Ponderosa's expenses. Tr. at 161. He suggested that resident owners and owners that have a live-in structure on their property should pay the same amount - \$65 per month. *Id.* All other lot owners should pay approximately \$15 per month. *Id.*

In previously filed comments, Mr. Cobott proposed that full-time customers pay \$60 per month and all other customers pay \$30 per month. This proposal, which Staff referred to as "Option #8," also included a water usage charge of \$0.01 per gallon.

Commission Staff: Staff's rate design was premised upon five types of customers: 1) "Full-Time" customers that have water service to the customer's permanent residence; 2) "Part-Time" customers that have water service to an improved lot with a dwelling that is not considered the customer's permanent residence; 3) "Active Service" customers that have above-ground access to water; 4) "Inactive Service" customers that have underground service extended to their lot that is not readily accessible; and 5) "Former Customers" that do not currently or have never had water service provided to the lot, even though facilities may have been provided at one time. Staff Exhibit 107. Staff performed a customer inventory and determined that the system has 18 Full-Time, 11 Part-Time, 33 Active Service, 11 Inactive Service, and 6 Former Customers for a total of 87 system customers. Tr. at 74. Based on the system limitations and customer usage, Staff witness Fuss recommended "Staff Option #3": Full-Time and Part-Time customers pay \$61.50 per month while Active and Inactive Service customers pay \$9.00 per month. *Id.*

Staff also developed four other rate design alternatives. Staff Option #1 allocated the revenue requirement only to the 18 Full-Time customers at a rate of \$125/month. Tr. at 79. Assessing rates based on the allocation of fixed and variable costs, Staff Option #2 would

establish Full-Time and Part-Time customer rates at \$32.00 per month while active and inactive service customers would pay \$25.50 per month. Tr. at 80. Taking customer usage into consideration, Staff Option #4 would require customers to pay the following monthly amounts: Full-Time \$64.00, Part-Time \$33.00, Active Service \$17.00, and Inactive Service \$9.00. *Id.* Staff Option #5 attempted to offer a middle ground between Staff's Option #4 and a rate design created by customers (which Staff referred to as Option #6). Option #5 would require full-time customers to pay \$52 per month, part-time \$33 per month, active service \$22 per month, and inactive service \$12 per month. *Id.*

Public Comment: Customers had the option of indicating their rate design preference through written comment or oral testimony at the June 20 public hearing in Sandpoint.

1. **Joint Letter.** On May 20, 2002, the Commission received a letter signed by 23 customers that detailed a rate design proposal for the Commission's consideration. Using the four categories identified by the customer letter, the joint letter recommended that Staff's proposed revenue requirement should be collected monthly as follows: \$40.00 for Full-Time and Part-Time customers, \$20.00 for Active Service customers, and \$10.00 for Inactive Service customers. Staff's testimony referred to this proposal as "Option #6." Exhibit No. 113 at 1.

The joint letter also identified a number of adjustments that would reduce the revenue requirement. If the revenue adjustments proposed in the customer letter were adopted, the Commission would authorize Ponderosa to collect \$14,621.30 in annual operating costs plus \$1,754.56 for a 12% rate of return. *Id.* at 2-3. Using these numbers, customers would pay the following monthly rates: Full-Time residents \$30.00, Part-Time residents \$15.00, customers with a "Live Hydrant" \$15.00, customers with "No Water Pipe Above Ground" \$10.00, and customers with "No Water Service" \$0.00. *Id.* at 1. Staff's testimony referred to this as "Option 7."

2. **Individual Letters.** The Commission also received several individual letters concerning rate design issues. These letters generally suggested rates for Full-Time and Part-Time customers in the range of \$20 to \$45 per month. One customer agreed with Staff Rate Option No. 3 and found it to be "very reasonable." Another customer preferred Rate Option No. 2 with full-time users having a water use meter and paying an additional fee if they use more than 200 gallons/day to be put in escrow to fund an additional well. This customer later wrote

that Full-Time and Part-Time customers should be charged \$35.00 a month while all other customer classes charged \$20.00 to recover Ponderosa's reasonable expenses. He felt that this 6.5% increase would "probably keep the full timers in the system rather than out with the IPUC rate of \$56.50."

Although she had the community water to her residence shut off two years ago when faced with significant concerns about water quality, availability and customer service, a third resident supported the 4-tiered rate scale proposed by the residents in their meeting with the Staff (Option #6). A different customer agreed that the \$30 monthly rate advocated in the customers' joint letter was "a good offer" and that \$61 per month is unjustifiable. This customer also noted that "most water charges are \$20.00 monthly for these systems around the lake in developments this size."

A fifth customer stated that he believed an excellent first improvement to the system would be the installation of water meters to build water conservation into the fee schedule and allow for tiered rates based on season and usage. This customer did not support the tiered schedule proposed by the customer petition because he thought it was complex and would benefit high consumptive users at the expense of other users and the system's owner.

The Commission also received a letter from a resident that proposed the following rate structure: \$40.00 for Full-Time customers, \$35.00 for Part-Time customers, \$25.00 for Active Service customers, and \$10.00 for Inactive Service customers. Another customer voiced her frustration over being held "hostage" by Ponderosa when "we all would have been satisfied with \$45.00" a month.

3. Public Hearing Testimony During the public testimony, at least six different witnesses specifically addressed the issue of customer rate design. One witness suggested a fee based upon actual usage measured by a water meter even though the customer would be required to pay the cost of installing the meter. Tr. at 256. Another witness testified that a monthly water charge between \$30.00 and \$35.00 would be equitable for everyone.

A third witness stated that he did a "brief check" with some other people in the area to gauge what they felt was a fair cost. Tr. at 278. This witness found it interesting that the group consensus was \$30 per household, which was the amount the landowners submitted to the Commission (in the joint letter – Option #7) as being fair. *Id.* The maximum monthly charge advocated by the informally surveyed group was \$35.50. *Id.*

Another gentleman testified that he felt a monthly water charge in the range of \$40 to \$45 would be reasonable. Tr. at 140. He also hoped that part-time customers and seasonal people could pay a little more to ease the burden of the full-time customers. *Id.* This witness also indicated that if rates stay at \$56 to \$60 per month, some customers (including him) would drill their own wells to avoid paying such high rates. Tr. at 142. If this were to occur, the witness indicated that the water system would collapse because “there wouldn’t be anyone left.” *Id.*

A fifth witness testified that he preferred each lot be charged a flat monthly rate of approximately \$20. Tr. at 200, 203. Part-time and full-time customers would then pay an additional fee on top of the \$20 per lot charge, for a total monthly bill in the range of \$33 to \$35. *Id.*

Mr. Alan Miller also testified at the public hearing on behalf of the Department of Environmental Quality (DEQ). According to Mr. Miller, DEQ hopes that the Commission will not set Ponderosa’s rates for service so high as to encourage the abandonment of the public water service in favor of drilling individual wells. Tr. at 262. DEQ is concerned that the drilling of individual wells may have negative effects on public health given the shallow aquifer and possible contamination of wells on small lots from neighboring septic systems. Tr. 261-62.

Commission Findings: Based upon the record presented in this case and the need to balance Ponderosa’s reasonably incurred costs with affordable customer rates, the Commission finds it appropriate to authorize the following monthly rates for service on and after August 1, 2002:

CUSTOMER GROUP	DEFINED AS	MONTHLY RATE
Full-Time Customer	An improved lot with a dwelling that is used as a permanent residence and is the customer’s primary dwelling place.	\$48.00
Part-Time Customer	An improved lot with a dwelling that is not the customer’s permanent residence or primary dwelling place.	\$48.00
Active Service Customer	Service is extended to the lot and has above-ground access to water.	\$25.00
Inactive Service Customer	The lot does not have above-ground access to water.	\$0.00

For the purpose of determining Ponderosa's customer groups, a "dwelling" is defined as any structure that can provide shelter and is located on the lot or parcel for more than 15 days per month or 6 months per year. A "primary dwelling place"³ is defined as the single place which the customer has his or her true, fixed and permanent home and principal establishment, and to which the individual intends to return whenever he or she is absent. The primary dwelling place is also where the customer resides on January 1 and: (i) at least six (6) months during the prior year; or (ii) the majority of the time the customer owned the dwelling if owned by the customer more than one (1) year; or (iii) the majority of the time after customer first occupied the dwelling if occupied by the customer for less than one (1) year.

The Commission finds this rate structure to be appropriate for the Ponderosa system because it allocates variable costs to the customers that are likely to be using the system (full-time and part-time customers) while generally allocating the fixed costs to all customers who have above ground access to water. Although some customers testified or commented that part-time customers use less water and therefore should pay less than full-time customers, we find it is reasonable to charge both groups the same rate because Ponderosa would otherwise have difficulty ascertaining which customers were in residence so as to differentiate between full-time and part-time status. Under this rate design, any Ponderosa customer that frequently has a dwelling located on an improved lot will be charged the \$48.00 rate. The current customer class and rate of each Ponderosa customer (identified by block and lot number) is listed as Attachment I to this Order.

As noted by both Ponderosa and Staff, each small water system is unique. Staff and several customers testified that the Commission's proposed and interim rates are significantly higher than nearby small water systems. Ponderosa's rates are higher for several reasons. First, the Ponderosa system has a small customer base from which it can recover its costs. Second, Ponderosa requires substantial amounts for ongoing maintenance and repair due to the age of the system. The Ponderosa system also has a relatively limited and costly water supply that necessitates greater investment in well drilling, chlorination equipment and pumping costs.

The Commission also directs the Company to adopt and implement the Commission's Utility Customer Relations Rules (UCRR), the Commission's Utility Customer Information Rules (UCIR), and an accounting system consistent with the information required by the

³ The definition of "primary dwelling place" is based on *Idaho Code* § 63-701(9)(a).

Commission's annual report for small water companies. IDAPA 31.21.01; 31.21.02; 31.36.01. Ponderosa shall file tariffs or schedules of these rates and charges no later than 28 days from the service date of this Order. We direct the Staff to assist the Company in preparing the necessary tariffs and we encourage Ponderosa to make use of Staff's expertise in making such filings.

B. Fees and Other Charges

The Commission also took testimony and comment on the fees and charges Ponderosa should assess. Hook-Up fees, Disconnection Fees, Reconnection fees and Late Payment/Interest fees are discussed in greater detail below.

1. Hook-Up Fee: Staff witness Fuss recommended that former customers that wish to begin taking service be required to pay a \$2,500 hook-up fee. Tr. at 82. This \$2,500 hook-up fee is based on Mr. Fuss's analysis of the cost for a new source and the approximate number of customers that could be served by the new source. Tr. at 82-3. Staff believes the hook-up fee will provide incentive because any customer that pays the monthly rate would avoid the hook-up fee should they ever wish to take water service in the future. Tr. at 83. It would also promote equity by assessing customers that do not currently take service their share of the cost of a new source when or if they choose to begin taking water service. *Id.* Ponderosa witness Cobott also advocated a \$2,500 hook-up fee for customers that wished to reconnect to the system and had been removed from the system for greater than one year. Tr. at 161.

Commission Findings: We find it is reasonable for all landowners that benefit from the Ponderosa system by taking water service to contribute to the funding of new water supplies and maintenance of the system. Based upon Staff witness Fuss's analysis and the agreement of the Company, the Commission finds it reasonable for Ponderosa to assess a \$2,500 hook-up fee for new customers and inactive service customers⁴ that wish to begin taking water service. However, the Commission also finds it appropriate to allow a grace period for inactive service customers to change their customer class to avoid this sizable fee and begin making monthly payments. This grace period is discussed in greater detail below.

2. Disconnection Fee: Ponderosa witness Cobott testified that disconnection and reconnection fees for customers with delinquent bills should be at least \$50.00 each. Tr. at 161. Staff did not propose a disconnection fee and recommended only a reconnection fee.

⁴ The definition of "Inactive Customers" adopted by the Commission includes those customers that Staff referred to in its testimony as "Former Customers."

Commission Findings: The Commission has traditionally not allowed water companies to charge a disconnection fee because it is primarily a collection tool that protects the company from providing future service without receiving just payment. The Commission does not authorize rates for the purpose of punishing customers that do not pay their bills. Rather, we approve rates that allow the utility to recover its legitimate and reasonable costs of operation plus a reasonable return. After properly disconnecting a customer's service according to the Commission's Rules, the Company need not reconnect a customer until such time as the customer has paid any amounts previously owed to Ponderosa and the reconnection fee discussed below. Ponderosa's proposal to charge customers with delinquent bills a \$50 disconnection fee is therefore denied.

3. Reconnection Fee: Ponderosa recommended two different reconnection fees. After a customer's service has been disconnected for non-payment, Ponderosa advocated imposition of a \$50 reconnection fee. Tr. at 161. When a customer is current in their water bill but is leaving the premises for a significant period of time, Mr. Cobott recommended that a \$10 charge be assessed to physically turn the water off or on. Tr. at 183-84, 186-190. Staff witness Fuss recommended a \$25 fee for routine reconnection of service after the customer has had their service turned off for the season, for customer maintenance, or after involuntary disconnection for non-payment. Tr. at 85.

Commission Findings: As Staff witness Fuss noted, the Commission typically authorizes reconnection fees in the range of \$25 to \$35 for small water companies. Tr. at 85. Given the nature of the Ponderosa system, the Commission finds it reasonable for Ponderosa to collect a \$35 reconnection fee for customers seeking to resume service after an involuntary disconnection for non-payment, or a voluntary disconnection for maintenance or an extended customer absence from the property.

4. Late Payment and Interest Fees: Mr. Cobott testified that Ponderosa would like to charge customers who are more than 30 days late in paying their bill a \$10.00 late fee per lot plus 18% interest on the delinquent amounts. Tr. at 161. Staff witness Fuss did not propose such charges and testified that generally "... late fees, billing service charges, or interest charges are not allowed at this time." Tr. at 86.

Commission Findings: The Commission has historically rejected implementing late payment charges and interest on past due bills for non-energy services. Energy utilities are

sometimes allowed to collect interest because Commission Rules restrict energy utilities' ability to terminate service to customers in the winter months. Because no such restrictions are in effect for water utilities, the Commission has not yet authorized water utilities to use late payment charges or charge interest. Because Ponderosa is not subject to a winter disconnection moratorium, the Company's proposal to implement a \$10 late fee per lot plus charge 18% interest on unpaid bills is denied. However, Ponderosa may wish to explore payment plans that make it more convenient for customers to pay their bills (i.e, pre-payment or lump sum payment for part-time customers).

C. Grace Period to Change Customer Classes

If a customer wishes to connect to the system in the future that: 1) had never previously connected to the system or 2) was connected but left the system by choice, Staff recommended that the customer be required to pay a hook-up fee. Tr. at 83-84. Because the customer would not have paid anything to maintain the system, Staff suggested that a hook-up fee be established in the amount of \$2,500 for new customers and any customer wishing to reconnect after a 60-day grace period. *Id.* This grace period would allow customers the opportunity to change customer classes and begin making monthly payments. Once the grace period has expired, all new connections or new service to those not paying a monthly rate would require payment of this \$2,500 hook-up fee. Ponderosa did not indicate a preference for or against such a grace period.

Commission Findings: The Commission believes it is possible that former customers that were either removed from the system or chose to leave the system may wish to reconnect now that Ponderosa is regulated with established service rates. Conversely, a customer may now wish to leave the Ponderosa system and switch to the Inactive Service customer class. While a customer can now discontinue service at any time regardless of whether a grace period is in effect, this customer now does so with the knowledge that a future reconnection could be expensive. To this end, the Commission finds it reasonable to allow customers to change customer classes, particularly from Inactive to Active Service, without being subject to the \$2,500 hook-up fee authorized above until October 15, 2002. The \$2,500 hook-up fee for new customers and those previously in the Inactive Service customer class will go into effect as of that date. Customers that wish to change customer classes shall notify Ponderosa of their intent no later than October 15, 2002.

To provide proper notice to individuals who are or potentially could be Ponderosa customers, the Commission directs the Commission Secretary to send a copy of this Order to all lot and parcel owners on the Ponderosa system by August 20, 2002. This Order shall act as notice of the rates and the grace period authorized in this Order so that potential and current customers can make educated decisions whether to take service from Ponderosa and under which customer class.

D. New Connections

In Order No. 28845, the Commission restricted all new connections to the system in light of concerns that Ponderosa may have inadequate water supply to serve existing customers. Staff witness Fuss testified that the Commission's restrictions on new hook-ups should be modified to allow up to a maximum of 37 full-time or part-time connections (eight more customers). Tr. at 78-79. Moreover, Staff believes this number could be increased if additional supply is developed or Ponderosa can provide an engineering analysis by a registered engineer indicating that the system can serve more customers. Tr. at 79.

Testifying on behalf of Ponderosa, Mr. Cobott stated that the system should only be allowed the number of hook-ups that the system can handle. Tr. at 160. While he agreed with the 37 hook-ups at present, Mr. Cobott testified that only full-time users (not part-time) should be considered. Tr. at 160, 168.

At the public hearing, Mr. Alan Miller testified on behalf of DEQ that the Commission should consider limiting water service to the current number of customers. Tr. at 262. Because Ponderosa has a demonstrated history of seasonally inadequate water supply, DEQ recommends that the Commission permit no additional connections until the water system can accurately document that the current water supply is adequate on a year-round basis. *Id.* Mr. Miller also recognized that the water system "does not have enough connections to be a viable entity." Tr. at 263.

Commission Findings: As we have previously indicated, the Commission does not regulate the drilling of private wells. However, the Commission is quite aware that this Order will impact private well drilling to the extent that the rates we set and the number of customers we allow affect the economic viability of Ponderosa.

We find it appropriate to allow the maximum number of customers the Ponderosa system can safely serve. According to Alan Miller of DEQ, the system has not run out of water

since the second well was drilled with some limited short-duration exceptions at higher elevations. Tr. at 264. This was true even though a drought effectively occurred last year in northern Idaho due to rapid run-off of a near-normal snowpack. Tr. at 265. The best information currently available on the quantity of water provided by Ponderosa's two wells is the 1999 Taylor Engineering Consultants report upon which Staff made its recommendation. Until such time as Ponderosa acquires additional water supplies or can provide an engineering analysis indicating that the system can serve more customers, the Commission finds it in the public interest to limit the number of customers connected to the Ponderosa system to 37 full-time and part-time customers.

E. Water and Service Quality

During the public hearing, the Commission took considerable testimony from customers who were concerned about the system's water quality. Although DEQ is the state agency that formally regulates water quality, we direct Ponderosa to maintain satisfactory water quality as required by DEQ. See *Idaho Code* § 61-302.

Witnesses at the public hearing also expressed concern about the ability of Ponderosa to promptly address maintenance issues and emergency situations. We also direct Ponderosa to ensure that an on-site troubleshooter is always available to handle such concerns. The Commission was also pleased to note Mr. Costello's experience in these matters and his offer to assist the system. Tr. at 292.

IV. BILLING AND DISCONNECTION

During the technical hearing, Mr. Cobott reiterated his need to know how to handle past-due amounts owed to Ponderosa by its customers – particularly amounts incurred prior to the Commission exerting jurisdiction over Ponderosa in September 2001. Tr. at 165-66. To minimize any potential confusion on the part of Ponderosa or its customers, we believe it is appropriate to reiterate the billing and disconnection procedures previously set forth in Order No 29046 and contained in our Utility Customer Relations Rules, IDAPA 31.21.01.

A. Billing and Disconnection for Service Since September 2001

On September 13, 2001, the Commission found that Ponderosa was providing utility service that falls within the Commission's jurisdiction. Order No. 28845. As such, the Commission's Customer Relations Rules are applicable to both the Company and customers.

Although Utility Rule 201 states that bills shall be issued on a regular basis, it is the Commission's understanding that Ponderosa did not bill customers for water service for the five months between December 2001 and April 2002. IDAPA 31.21.01.201. The Commission's Order No. 28903 established an interim rate of \$20 per month and customers may still owe Ponderosa \$20 per month for each of these five months. Rule 204.03 provides that customers who have not been billed shall be given the opportunity to make payment arrangements over the telephone, by mail, or in person under Rule 313 on the amount due. At the customer's option, the term of the payment arrangement may extend for the length of time (five months) that the customer was not billed. IDAPA 31.21.01.204.03. For example, residential customers who did not pay Ponderosa for water service for those five months shall pay \$56.50 for June 2002 water service plus \$20 toward the previously unbilled amount (\$100) owed to Ponderosa. Customers may have up to five months to repay the full \$100.

Because water service is not free of charge, we presume that customers promptly pay their water bills. If the customer fails to pay the current month owed and/or the arrearage portion (\$20 per month for each of the next five months) when due, Ponderosa may disconnect the customer under Rule 302 for failure to pay an undisputed delinquent bill. Rule 202(1) states that a bill may be considered delinquent if not paid fifteen (15) days after the billing date or twelve (12) days after mailing or delivery, if bills are mailed or delivered more than three (3) days after the billing date. IDAPA 31.21.01.202.01.

If the utility intends to terminate service under Rule 302, the utility shall mail a written notice of termination to the customer at least seven (7) calendar days before the proposed date of termination. IDAPA 31.21.01.304.01. Furthermore, this written termination notice must contain the information required by Rule 305. At least twenty-four (24) hours before actual termination, the utility must diligently attempt to contact the customer affected, either in person or by telephone, to advise the customer of the proposed action and steps the customer may take to avoid or delay termination. IDAPA 31.21.01.304.02. This oral notice must contain the same information required by Rule 305. The Commission understands that Ponderosa has out-of-state customers that are difficult to contact in person or by telephone for the purpose of providing 24-hour notice. In those instances, a "diligent attempt" to contact the customer may mean mailing the 24-hour notice to the customer's primary address but allowing several days for the customer to receive the notice and respond prior to disconnection.

These disconnection procedures still apply once the previously unbilled five months have been paid in full. The Commission would also note that because regulated utilities like Ponderosa can use disconnection as a collection tool, regulated utilities are generally prohibited from filing liens against property to secure the amounts owed.

In summary, the Commission recognizes that this case presents difficult issues regarding the creation of rates and designation of customer classes. To assist both the Company and its customers in understanding their responsibilities, we now summarize the various rates that have been in existence since September 2001. For services provided in September, October and November 2001, the monthly rate was \$60.00 per month for resident customers and \$30.00 for non-resident customers. Order No. 28845. For service rendered during the months of December 2001 through May 2002, all customers receiving service owe \$20.00 per month. Order No. 28903. For June and July 2002, the rate for monthly service for Full and Part-Time customers was \$56.50; all other customer classes owe \$6.50 per month. Order No. 29046 at 10. Finally, the rates on a going forward basis for service rendered on or after August 1, 2002, shall be \$48.00 per month for Full and Part-Time customers, and \$25.00 per month for Active Service customers.

B. Billing and Disconnection for Service Prior to September 2001

The Commission understands that some customers have arrearages for unpaid bills extending before September 2001. We encourage the Company and its customers to reach an agreement regarding charges for water prior to September 2001. Because the Commission did not set the rates prior to September 2001, we believe that our utility collection methods should not be used to collect the arrearages. To prevent any misunderstanding on the customer's account, any amounts owing prior to September 2001 should not be included in the current bill. Of course, Ponderosa may seek collection by other means – including small claims court. Because the Company has judicial remedies available, Ponderosa shall not use the Commission's disconnect procedures for non-payment of amounts owed prior to the Commission asserting jurisdiction over the Company.

V. MEMBER OWNERSHIP

Several customers indicated that residents would be best served by creation of a water district or homeowners' association that could hire Larry Fairfax to maintain the system.

As was noted in a 1980 rulemaking for Class D⁵ Water Companies, “. . . the Commission may find it in the public interest because of service considerations to promote conversion of ownership of a small water company to public ownership or its merger with a more viable entity.” Order No. 21208; *see also* IDAPA 31.36.01.101. In most cases, it is more beneficial to all parties involved if a homeowner’s association or a water district is formed. Formation of a member-owned or non-profit entity may allow customers greater control over the water system’s management and reduce rates by eliminating return on equity. This arrangement would also reduce Mr. Cobott’s regulatory burden, eliminate considerable legal liability as owner of the system, and allow him to devote his attention to business endeavors that have a greater profit potential than this barely viable part-time business.

The Commission is particularly concerned that Ponderosa is on the brink of a “death spiral” in which customers leave the system, further increasing rates to remaining customers and reducing Company profit until such time as the Company ceases operating and the owner loses his investment. *See* Order No. 21292. Thus, we strongly encourage Mr. Cobott and the residents of the Ponderosa Terrace Estates Subdivision to further explore the possibility of forming a homeowner’s association, water district, or another consumer-owned not-for-profit organization.

O R D E R

IT IS HEREBY ORDERED that Ponderosa Terrace Estates Water System, Inc. is authorized to collect an annual revenue requirement of \$26,604. Full-Time and Part-Time customers (as defined above) shall pay a flat rate of \$48 per month. Ponderosa shall also charge Active Service customers (as defined above) \$25 per month. These rates are effective for service rendered on and after August 1, 2002.

IT IS FURTHER ORDERED that the Commission Secretary send a copy of this Order to all lot and parcel owners on the Ponderosa system by August 20, 2002 to notify them of the rates and grace period discussed above.

IT IS FURTHER ORDERED that the Company comply with the rules for disconnection of customers with past-due bills as set forth above in this Order and in the Commission’s Rules. The Company shall also adopt and implement the Commission’s Utility Customer Relations Rules (UCRR), the Commission’s Utility Customer Information Rules

⁵ Companies with less than \$50,000 annual gross water revenues from water operations.

(UCIR), and an accounting system consistent with the information required by the Commission's annual report for small water companies.

IT IS FURTHER ORDERED that the Company shall file tariffs in conformance with the rates and charges set forth in this Order no later than 28 days from the service date of this Order.

IT IS FURTHER ORDERED that Ponderosa not exceed 37 full-time and part-time customers connected to the Ponderosa system at any given time.

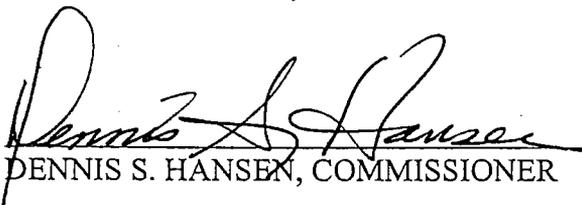
IT IS FURTHER ORDERED that Ponderosa maintain satisfactory water quality as required by DEQ. Ponderosa shall also ensure that an on-site troubleshooter is always available to address maintenance, repair and service quality matters.

THIS IS A FINAL ORDER. Any person interested in issues finally decided by this Order or in interlocutory Orders previously issued in Case No. GNR-W-01-1 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter finally decided in this Order or in interlocutory Orders previously issued in Case No. GNR-W-01-1. For purposes of filing a petition for reconsideration, this order shall become effective as of the service date. *Idaho Code* § 61-626. 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 8th
day of August 2002.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

O:GNRW0101_ln2_final

**Ponderosa Terrace Estates Water
Customer Inventory and Rates**

Block	Lot	Customer Classes			Monthly Flat Rate
		Full Time	Part Time	Inactive	
1	1				\$0
1	2			X	\$25
1	3			X	\$25
1	4			X	\$48
1	5	X			\$48
1	6		X		\$25
1	7	X			\$48
1	8	X			\$48
2	1			X	\$25
2	2			X	\$25
2	3				\$0
2	4			X	\$0
2	5			X	\$25
2	6			X	\$25
2	7	X			\$48
2	8	X			\$48
2	9	combined		combined	\$0
2	10	combined			\$25
2	11	X			\$48
3	1			X	\$0
3	2			X	\$0
3	3			X	\$0
3	4			X	\$25
3	5			X	\$0
3	6			X	\$0
3	7	X			\$48
3	8			X	\$0
3	9			X	\$25
3	10			X	\$25
3	11		X		\$48
3	12			X	\$25
3	13			X	\$25
3	14			X	\$25
3	15			X	\$25
3	16			X	\$0
3	17			X	\$0
3	18	X			\$48
3	19	X			\$48
3	20			X	\$0
3	21			X	\$25
3	22	X			\$48
3	23			X	\$0
3	24	X			\$48
Subtotal		10	3	13	\$12,288

Block	Lot	Customer Classes			Monthly Flat Rate
		Full Time	Part Time	Inactive	
4	1				\$25
4	2			X	\$25
4	3			X	\$0
4	4			X	\$25
4	5			X	\$25
4	6	X			\$48
4	7	combined		combined	\$48
4	8	combined		combined	\$0
4	9			X	\$0
4	10			X	\$25
4	11			X	\$25
4	12			X	\$25
4	13			X	\$0
4	14			X	\$0
5	1			X	\$25
5	2		X		\$48
5	3		X		\$48
5	4			X	\$0
5	5			X	\$0
5	6			X	\$48
5	7	X			\$48
5	8	X			\$48
5	9			X	\$0
5	10			X	\$0
5	11			X	\$0
5	12			X	\$0
5	13	X			\$48
6	1			X	\$25
6	2		X		\$48
6	3			X	\$25
6	4			X	\$25
6	5			X	\$0
6	6			X	\$48
6	7			X	\$25
6	8			X	\$25
6	9			X	\$25
6	10			X	\$25
6	11			X	\$25
6	12			X	\$48
6	13			X	\$48
6	14			X	\$48
6	15			X	\$48
6	16			X	\$48
6	17			X	\$48
6	18			X	\$48
6	19			X	\$48
6	20			X	\$48
6	21			X	\$48
6	22			X	\$48
6	23			X	\$48
6	24			X	\$48
Subtotal		8	8	12	\$14,316

Totals			Customer Classes			Monthly Flat Rate
Block	Lot	Full Time	Part Time	Inactive	Active	Rate
Blocks 1-3		10	3	13	16	\$ 12,288.00
Blocks 4-6+		8	8	12	17	\$ 14,316.00
Totals		18	11	25	33	\$ 26,604.00

Exhibit No. 9
Case No. PTE-W-03-1
M. Fuss, Staff
4/1/03 Page 21 of 22

**ATTACHMENT 1
ORDER NO. 29086**

**SUMMARY OF RATES FOR PONDEROSA WATER SINCE IPUC
ASSERTED JURISDICTION IN SEPTEMBER 2001**

SERVICE PERIOD	CUSTOMER CLASS	AUTHORIZED MONTHLY RATE
September – November 2001	▪ Resident Customers	▪ \$60.00
	▪ Non-Resident Customers	▪ \$30.00
December 2001 – May 2002	▪ All classes taking service	▪ \$20.00
June – July 2002	▪ Full-Time Customers	▪ \$56.50
	▪ Part-Time Customers	▪ \$56.50
	▪ Active Service Customers	▪ \$ 6.50
	▪ Inactive Service Customers	▪ \$ 6.50
	▪ Former Customers	▪ \$ 6.50
August 2002 - future	▪ Full-Time Customers	▪ \$48.00
	▪ Part-Time Customers	▪ \$48.00
	▪ Active Service Customers	▪ \$25.00
	▪ Inactive Service Customers	▪ \$ 0.00

Definitions

- Full-Time Customer: An improved lot with a dwelling that is used as a permanent residence and is the customer's primary dwelling place.
- Part-Time Customer: An improved lot with a dwelling that is not the customer's permanent residence or primary dwelling place.
- Active Service Customer: Service is extended to the lot and has above-ground access to water.
- Inactive Service Customer: The lot does not have above-ground access to water.
- Former Customer: Water service is not currently or has never been provided to the lot or parcel, even though the facilities may have been provided at one time.

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION)
INTO WHETHER PONDEROSA TERRACE) CASE NO. GNR-W-01-1
ESTATES WATER SYSTEM, INC. IS A)
PUBLIC UTILITY SUBJECT TO)
REGULATION BY THE IDAHO PUBLIC) ORDER NO. 29123
UTILITIES COMMISSION)
_____)

In final Order No. 29086 issued on August 8, 2002, the Commission established an annual revenue requirement for Ponderosa Terrace Estates Water System in the amount of \$26,604. Order No. 29086. To collect this amount, the Commission authorized Ponderosa to collect monthly rates in the amount of \$48 for Full-Time and Part-Time customers and \$25 for Active Service customers.¹ These rates became effective for service rendered on or after August 1, 2002. Following issuance of Order No. 29086, the Commission received a Petition for Reconsideration filed by Mr. Lyle Peterson, to which Ponderosa filed a Cross-Petition. Having fully reviewed the Petitions and the record in this matter, the Commission denies the Petitions as set out in greater detail below.

PETITIONS FOR RECONSIDERATION

A. Petition from Lyle Peterson

1. Excessive Rates: On August 28 and 29, 2002, Mr. Lyle Peterson submitted several e-mails that were intended to collectively constitute a Petition for Reconsideration. Mr. Peterson requested that the Commission reconsider the flat monthly rates it set for Ponderosa. According to his Petition, Mr. Peterson believes that a rate in excess of \$40.00 per month for Full- and Part-Time customers "will cause the customer to either move to another location or put in a well." Moreover, he stated his belief that "the \$25.00 rate for active customers will also cause customer dilution." Mr. Peterson stated that he would like Ponderosa "to survive," but setting "excessive rates that owners cannot afford to pay" will "hurt the utility and cause customers to leave the system." In short, Ponderosa "needs to be more cost effective and show water service stability."

¹ "Active Service" customers have service extended to the lot and have above-ground access to water.

On the issue of rates, Mr. Peterson further stated that the Full-Time and Part-Time rates have “already caused at least 5 lots to go to wells & by the 1st of 2003, another 5 & maybe another 3 by early 2003.” He argued that it is “not in the interest of the citizens of Idaho to have the IPUC provide excessive customer rates for a questionable utility operation.”

2. Lot Classification: Mr. Peterson also took issue with the classification of 14 lots owned by Ponderosa owner Robaer Cobott and his family. His Petition advocated adding these 14 inactive lots to the ratebase for active service customers. Since these lots are controlled by the utility, Mr. Peterson argued that they should be treated as active service customers rather than inactive. According to the Petition, the cost to change these lots from inactive to active service would be approximately \$100 or less for the cost of 4 feet of pipe, a spigot, and an hour of excavation work.

3. Hook-up Fee: The Petition also found fault with the \$2,500 hook-up fee authorized in Order No. 29086. Mr. Peterson argued the \$2,500 fee is unreasonable because the Commission made no provision for this money to go into an account for future water sources. Furthermore, Mr. Peterson questioned whether this fee would ever be a factor on the inactive lots when Robaer Cobott and his family own half of them. He believes that the fee to hook-up an inactive customer should be the actual cost – approximately \$100 – unless the fee is ordered to be placed in a future water source account because Mr. Cobott controls most of the inactive lots. Mr. Peterson does not believe that hook-ups will occur with “excessive rates” and high hook-up fees that “will not keep customers in the system.”

In regards to the method of Reconsideration he seeks, Mr. Peterson stated that Reconsideration by “comments or any other method would be fine.”

B. Ponderosa's Cross-Petition

On September 6, 2002, Ponderosa responded to Mr. Peterson's Petition for Reconsideration by filing a Cross-Petition.

1. Lot Classification: Mr. Cobott stated that he and his family own 11 inactive lots, not 14 lots as alleged by Mr. Peterson. In any event, Mr. Cobott argued that his lots fall under the same rules as any other landowner with regard to the hook-up fee. While stating that it is his right to keep his lots inactive like any other inactive landowner, Mr. Cobott recognized that he will also have to pay the \$2,500 hook-up fee per lot when service is needed in the future.

2. Hook-up Fee: Ponderosa's Cross-Petition took issue with Mr. Peterson's assessment that a new connection would require only one hour of labor. The Company estimated that the minimum amount of time to excavate, shut off the water, make repairs, acquire parts, and monitor the system for leaks once the water was turned on was four hours. This estimate did not include the cost of the parts, the time necessary to go to town to purchase them, or any unforeseen difficulties. Ponderosa stated that the \$2,500 hook-up fee is necessary to enable "the water system to make future well sites and whatever else it needs to provide water to Ponderosa customers."

3. Inadequate Revenues: Mr. Cobott also requested that the Commission reconsider the rate schedule because the number of customers on the Ponderosa system has changed greatly since the Commission established the revenue requirement. His Cross-Petition indicated that eight dwellings and three active service customers are no longer connected to the Ponderosa system because of wells being put in. Mr. Cobott stated "this amounts to a loss of revenue of \$459.00 per month or \$5,508.00 per year."

COMMISSION DISCUSSION AND FINDINGS

The Commission has reviewed and considered final Order No. 29086, the Petitions filed by Mr. Peterson and Ponderosa, and the record in this case.

A. Standards for Reconsideration

Reconsideration provides an opportunity for a party to bring to the Commission's attention any issue previously determined and thereby provides the Commission with an opportunity to rectify any mistake or omission. *Washington Water Power Co. v. Kootenai Environmental Alliance*, 99 Idaho 875, 591 P.2d 122 (1979). In those instances where an aggrieved party asks the Commission to reconsider its decision based upon the record, it may simply do so. The Commission may also grant reconsideration by rehearing if it intends to take additional evidence or argument. If reconsideration is granted, the Commission must complete its reconsideration within 13 weeks after the date for filing petitions for reconsideration. *Idaho Code* § 61-626(2). If the Commission grants reconsideration, it "must issue its order upon reconsideration within twenty-eight (28) days after the matter is finally submitted for reconsideration." *Id.*

The Commission's Rules of Procedure set out the requirements to which petitions for reconsideration must conform. To allow parties to timely respond to reconsideration filings,

Rule 63 provides that all documents must be served upon the representatives of every party of record. IDAPA 31.01.01.063. Rule 331 requires petitions and cross-petitions for reconsideration to “set forth specifically the ground or grounds why the [cross-] petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law, and a statement of the nature and quantity of evidence or argument the [cross-] petitioner will offer if reconsideration is granted.” IDAPA 31.01.01.331.01. To allow the Commission to consider the relief requested by the petitioner, Rule 331.03 requires that a petition or cross-petition for reconsideration “must state whether the [cross-] petitioner. . .requests reconsideration by evidentiary hearing, written briefs, comments, or interrogatories. . . .” IDAPA 31.01.01.331.03.

Although *Idaho Code* § 61-626(1) and Commission Procedural Rule 331 allow a party to cross-petition for reconsideration in response to any issues raised in a petition for reconsideration within seven days, they also state that a petition for reconsideration must be filed within 21 days after the date of the Order from which reconsideration is sought. *Idaho Code* § 61-626(1) also provides:

Cross-petitions for reconsideration may be granted if any petition for reconsideration to which they respond is granted on the issues to which the cross-petition is directed, but cross-petitions for reconsideration will be denied when the petitions for reconsideration to which they are directed are denied.

Because a cross-petition for reconsideration will be granted only as to those issues that respond to an issue initially raised in a petition for reconsideration, the scope of a cross-petition for reconsideration is limited to those issues raised in a petition for reconsideration. *Eagle Water Company, Inc. v. Idaho Public Utilities Commission*, 130 Idaho 314, 940 P.2d 1133 (1997). Thus, new reconsideration issues cannot be raised outside of the 21 day reconsideration period.

While Mr. Peterson requested reconsideration by “comments or any other method,” Ponderosa’s reconsideration request did not specify the method of reconsideration the Company sought. Furthermore, neither Petition specified “the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted.” IDAPA 31.01.01.331.01. We took extensive testimony during the evidentiary public hearings (totaling 318 pages) held in Sandpoint on June 20, 2002. Thus, the Commission finds that another comment period is not required. Mr.

Peterson's Petition for Reconsideration offers to produce no new evidence of a nature relevant to the issues raised in Order No. 29086. For these reasons plus those identified below, we find it reasonable to deny Mr. Peterson's Petition for Reconsideration and consequently the Company's Cross-Petition as well. *Idaho Code* § 61-626(2).

B. Disputed Issues

1. Excessive Rates: As we recognized in Order No. 29086, the Ponderosa Terrace Estates Water Company is a small system with limited resources. It has approximately 29 customers, 2 supply wells with a combined capacity of only 25 gallons per minute, and a 30-year old infrastructure. While we understand that customers would like less costly water service, the Commission cannot alter these physical system characteristics when setting rates.

In establishing a revenue requirement and the rates required to recover this amount, we considered the financial needs of the Company and the ability of customers to pay. As we stated in Order No. 29086, our goal is to maintain Ponderosa's financial viability without setting rates so high that customers are forced to seek alternate water supply sources. After conducting evidentiary and public hearings on these issues, the Commission determined that Ponderosa needed to recover \$26,604 in annual revenue from its ratepayers to meet its prudent and reasonable operating costs, fairly compensate the Company for its labor expenses, and allow Ponderosa to earn a fair rate of return on the capital invested in the water system.

Mr. Peterson's Petition identifies the need for lower rates. However, he does not offer any cost evidence justifying a reduced revenue requirement and lower rates. Although we understand Mr. Peterson's argument, we are compelled to set rates that are reasonable to both the Company and the customers. *Idaho Code* §§ 61-502, 61-623. We also note that the \$48 monthly rate for Full- and Part-Time customers approved in Order No. 29086 is significantly less than the \$60 rate being charged by the Company last autumn. Based upon the evidence before us, we affirm the revenue requirement and monthly rates established in Order No. 29086.

2. Lot Classification: Mr. Peterson's Petition advocated that the inactive lots owned by Mr. Cobott be included as active service customers. This would result in additional monthly income to the Company. While it is true that classifying the lots owned by Mr. Cobott and his family as "active service" rather than "inactive" would allow rates to be spread over a greater number of customers, neither Ponderosa nor the Commission can force a potential customer to take service. *Idaho Code* § 61-315 states: "No public utility shall, as to rates, charges, service,

facilities or in any other respect . . . subject any corporation or person to any prejudice or disadvantage.” This statute also empowers the Commission to determine any question of fact arising under this section. If Ponderosa or the Commission were to require the Cobott family lots to change classification merely because of their relationship to the Company’s owner, the owners of the lots would clearly be disadvantaged or penalized in a manner that unrelated customers are not. Moreover, these inactive lots will be subject to the \$2,500 hook-up fee when service is connected at a future date – just as would any other Ponderosa customer.

3. Hook-up Fee: Next, Mr. Peterson asserted that the hook-up fee is too high. The \$2,500 hook-up fee is designed to cover not only the physical installation costs of extending service above the ground, but also to fund ongoing maintenance and new supply sources for the aging Ponderosa system. Absent such a fee, the Commission does not believe it is fair for long-term customers to fund a system from which new customers could acquire service without a similar investment. The \$2,500 hook-up fee is an attempt to quantify the long-term investment made by existing Ponderosa customers in addition to the actual cost to hook-up a new customer.

While the Commission understands Mr. Peterson’s concern that the \$2,500 fee could get lost in the financial books absent placement in a separate account, we are confident that such funds will be properly booked. Prior to approving any rate increase or authorizing additional debt for new capital investment, the Commission and Staff reviews the financial records of the utility. After reconciling the previous customer inventory with the current number of customers in each class, the Commission will be able to determine how much money Ponderosa has received in hook-up fees. The Commission expects Ponderosa to utilize hook-up fees to provide system improvements and to account for any maintenance expenditures.

4. Ponderosa Cross-Petition: Having denied the Petition for Reconsideration, the responding Cross-Petition is deemed denied. However, one issue in the Cross-Petition should be addressed.

In opposition to Mr. Peterson’s contention, the Cross-Petition argued that the rates should be reconsidered because they were too low. For this argument to be properly considered by the Commission, the Company would have had to file within the 21-day reconsideration period, not during the 7-day cross-petition period that followed. Because Ponderosa’s Cross-Petition for Reconsideration was not filed within 21 days of Order No. 29086, it was not timely

as a petition for reconsideration. “[C]ross-petitions for reconsideration will be denied when the petitions for reconsideration to which they are directed are denied.” *Idaho Code* §61-626(1).

Although the Idaho Code and case law does not permit us to grant Ponderosa’s requested reconsideration of its declining revenues in this context, the Commission continues to be concerned about the financial viability of Ponderosa. In Order No. 29086, we set a grace period for customers to change customer classes without being subject to the \$2,500 hook-up fee until October 15, 2002. To allow the Commission to monitor Ponderosa’s changing customer base, we direct Ponderosa Terrace Estates Water System and Commission Staff to submit a report to the Commission no later than November 25, 2002 detailing changes to the number of customers in each class and the impact these changes will have on Ponderosa’s revenues.

In sum, we deny Mr. Peterson’s Petition for Reconsideration. Consequently, Ponderosa’s Cross-Petition is denied because the Commission has denied Mr. Peterson’s Petition. As to the additional issue of inadequate revenues raised by Ponderosa, we deny reconsideration because it was not timely filed within the 21-day reconsideration period. Of course, Ponderosa may choose to file a formal Application in a separate proceeding to modify customer rates at any time.

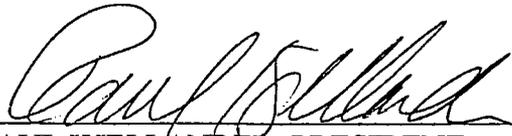
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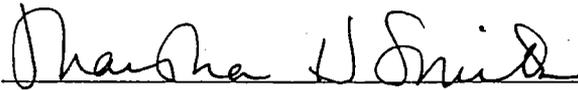
IT IS HEREBY ORDERED that the Petition for Reconsideration filed by Lyle Peterson is denied. Having denied Mr. Peterson’s Petition, Ponderosa Terrace Estates Water System’s Cross-Petition is consequently also denied.

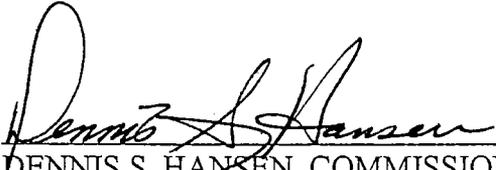
IT IS FURTHER ORDERED that Ponderosa Terrace Estates Water System and Commission Staff submit a report to the Commission no later than November 25, 2002 detailing changes to the number of customers in each class and the impact these changes will have on Ponderosa’s revenues.

THIS IS A FINAL ORDER ON RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in Case No. GNR-W-01-1 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

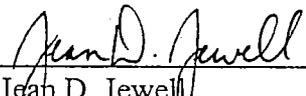
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 24th
day of September 2002.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

O:GNRW0101_ln3_recon

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION)
INTO WHETHER PONDEROSA TERRACE) CASE NO. GNR-W-01-1
ESTATES WATER SYSTEM, INC. IS A)
PUBLIC UTILITY SUBJECT TO)
REGULATION BY THE IDAHO PUBLIC) ORDER NO. 29172
UTILITIES COMMISSION)
_____)

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 customers¹ 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 (Report) indicated that even though Ponderosa is currently under-collecting its revenue requirement, neither Staff nor Ponderosa recommends a change in rates at this time. Report at 2. Based on a number of inquiries received by the Commission, it is apparent that some confusion exists regarding the implementation of the Commission's Orders and the Company's treatment of seasonal disconnections. Because Staff and the Company do 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.*

Having fully reviewed Staff's Report and the record in this matter, the Commission clarifies its prior Orders and imposes new seasonal disconnection requirements as set forth in greater detail below.

SEASONAL DISCONNECTIONS

According to Staff, Ponderosa believes that all full-time, part-time or active service customers connected to the system must pay the monthly rate year-round whether they use water or not. *Id.* Ponderosa further believes that if a customer is not paying the monthly charge, the Company can disconnect the customer if it follows the appropriate disconnection procedures.

¹ "Active Service" customers have service extended to the lot and have above-ground access to water.

Once disconnected, either by choice or for failure to pay monthly bills, Ponderosa considers the customer to be a member of the inactive customer class. *Id.* To receive service in the future, the Company would then require the customer to pay the \$2,500 hook-up fee plus the \$35.00 reconnection charge. *Id.* at 3.

Staff agrees that the Company should be able to disconnect customers for non-payment. However, Staff believes that a customer will retain their customer class status while disconnected and must pay only the \$35 reconnection fee to reactivate the service rather than the one-time \$2,500 hook-up fee, which is a one-time fee targeted for well improvements. *Id.* In light of these different interpretations, Staff requested clarification of Order No. 29086 in regard to seasonal disconnections.

COMMISSION DISCUSSION AND FINDINGS

The Commission has reviewed and considered Order Nos. 29086 and 29123, Staff's Report, and the record in this case. Since this case's inception, we have attempted to provide enough revenue to support Ponderosa's aging infrastructure while not overwhelming the pocketbooks of its small customer base. Because Ponderosa serves a "resort" community in which many of its customers do not permanently reside, some of its customers disconnect from service when they close up their dwellings for the winter months. The Commission believes that this is an appropriate practice and one that is often necessary to protect the integrity of the customer's water service from freezing temperatures. That being said, the vast majority of Ponderosa's expenses are fixed; these costs are incurred regardless of how many customers actually take water from the system at any given time. To ensure that a working system is available when part-time and active service customers visit their lots, the Commission thus finds it reasonable to require seasonal customers to financially maintain the system for a significant portion of the year.

As of January 1, 2003, Ponderosa full-time, part-time and active service customers shall pay for service a minimum of four months of each calendar year. In other words, each customer may disconnect from the system for up to eight months of a calendar year but remains obligated to pay for water service at least four months out of the calendar year to maintain active customer status. A customer who has been voluntarily or involuntarily disconnected from the Ponderosa system for more than eight full months shall be moved to an "Inactive Service" class.

Once in the Inactive Service customer class, this customer will be required to apply as a "new applicant" and thus subject to the \$2,500 hook-up fee.

Voluntary Disconnections for Extended Customer Absence.

Customers who disconnect during the winter or for an extended absence not exceeding eight months are not required to make payments while disconnected. To avoid confusion and pro-rating disputes, the Commission finds that Ponderosa may charge customers who disconnect mid-month for a full month of service. However, seasonal customers must pay for service at least four months out of the calendar year to avoid assessment of the \$2,500 hook-up fee at the time of reconnection. When reconnecting to the system, Ponderosa may charge a \$35 reconnection fee. Order No. 29086 at 12.

During the requisite four months each customer pays for water service, the customer will not be required to actually take service if they do not wish to receive it (e.g., the customer will not be in residence during those months). Ponderosa shall not charge a \$35 reconnection fee to those customers who pay for service to meet the four-month minimum but are not physically reconnected to the system. In other words, Ponderosa may assess a \$35 reconnection fee only when a Company employee must physically reconnect water service to the customer's lot or dwelling.

After a customer has been voluntarily disconnected for seven months, Ponderosa must send a notice to the customer by certified mail. The notice must inform the customer that the Company intends to move them to the Inactive Service class, which would subject the customer to a \$2,500 hook-up fee if the customer seeks to resume service in the future, if the customer has not reconnected within 30 days of the letter's receipt or before the end of eight full months of disconnection – whichever is later. The Commission will only allow the \$2,500 hook-up fee to be collected if Ponderosa properly retains: 1) 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.

Once moved to the Inactive Service class, a customer seeking to resume service must pay Ponderosa the \$2,500 hook-up fee in order to resume service. Ponderosa shall not charge a \$35 reconnection fee to a customer who voluntarily disconnects from the water system for more than eight months because the customer will resume service as a "new applicant" who must instead pay the \$2,500 hook-up fee. Although not financially prudent, it is conceivable that a

customer who repeatedly disconnects and fails to pay for water for periods greater than eight months could be charged the \$2,500 hook-up fee more than once.

Involuntary Disconnections for Non-Payment.

As we explained in Order No. 29086, the Commission presumes that customers promptly pay their water bills. If a customer fails to pay the current month owed when due, Ponderosa may disconnect the customer under Customer Relations Rule 302 for failure to pay an undisputed delinquent bill. Rule 202(1) states that a bill may be considered delinquent if not paid fifteen (15) days after the billing date or twelve (12) days after mailing or delivery, if bills are mailed or delivered more than three (3) days after the billing date. IDAPA 31.21.01.202.01. Ponderosa must follow the procedural disconnection requirements found in the Commission's Customer Relations Rules.

Customers who wish to reconnect to the system within eight months of being involuntarily disconnected are required to pay the Company the delinquent amount owed plus a \$35 reconnection fee. After a customer has been involuntarily disconnected for non-payment for seven months, Ponderosa must send a notice to the customer by certified mail. The notice must inform the customer that the Company intends to move them to the Inactive Service class, which would subject the customer to a \$2,500 hook-up fee if the customer seeks to resume service in the future, if the customer has not reconnected within 30 days of the letter's receipt or by the end of eight full months of disconnection – whichever is later. The Commission will only allow the \$2,500 hook-up fee to be collected if Ponderosa properly retains: 1) 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.

Once moved to the Inactive Service class, a customer seeking to resume service must pay Ponderosa the delinquent amount owed and a \$2,500 hook-up fee in order to receive service. Ponderosa shall not charge a \$35 reconnection fee to a customer who has been involuntarily disconnected from the water system for more than eight months because the customer will resume service as a "new applicant" who must instead pay the \$2,500 hook-up fee. Again, it is conceivable that a customer who repeatedly fails to pay for water for periods greater than eight months could be charged the \$2,500 hook-up fee more than once.

ORDER

IT IS HEREBY ORDERED that as of January 1, 2003, Ponderosa Terrace Estates Water System is authorized as set forth above to involuntarily move a customer to the Inactive Service customer class if the customer remains disconnected from the system for longer than eight full months. To impose a \$2,500 hook-up fee when the customer seeks to resume service after the eight months have passed, Ponderosa must retain for Commission review: 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. Seasonal customers must pay for service at least four months out of the calendar year to avoid assessment of the \$2,500 hook-up fee at the time of reconnection.

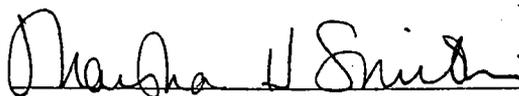
IT IS FURTHER ORDERED that Ponderosa is authorized to charge customers who disconnect mid-month for a full month of service.

THIS IS A FINAL ORDER. Any person interested in issues finally decided by this Order in Case No. GNR-W-01-1 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any issue finally decided in this Order. For purposes of filing a petition for reconsideration, this Order shall become effective as of the service date. *Idaho Code* § 61-626. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

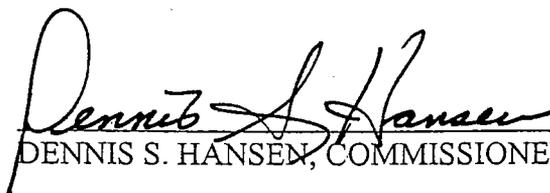
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 20th
day of December 2002.



PAUL KJELLANDER, PRESIDENT

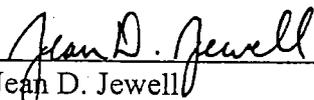


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

O:GNRW0101_ln4_seasonaldisconnect

P.T.E. WATER SYSTEM INC.

2626 Wendigo Loop Road
Sandpoint, Idaho 83864

Telephone 208-263-2720

January 2, 2003

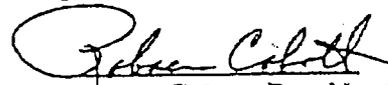
Dear Landowners

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 dwelling, 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 hear from you by letter or phone during this time period then you will be withdrawn from any future water use from this system.

Exhibit No. 12
Case No. PTE-W-03-1
M. Fuss, Staff
4/1/03 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, 2003.

THANK YOU


Robaer Cobott, President

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

Statement

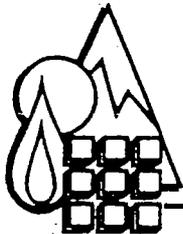
DATE
 2/3/'03

TO:

[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		
<p>THIS STATEMENT IS FOR THE PREVIOUS MONTH'S WATER BILL</p>					
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



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.

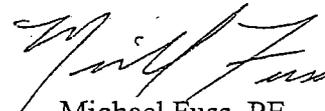
Robaer Cobott
January 23, 2003
Page 2

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

2626 Wrenco Loop Road
Sandpoint, Idaho 83864

P.T.E. Water System Inc.

Telephone 208-263-2720

December 30, 2001

Landowners

I will be converting Ponderosa Terrace Estates Water System Inc. from a private held water system to a Water System Association that will be owned by and run by the landowners. This water association will be named Ponderosa Terrace Estates Water Association. This association will go into effect on January 1, 2002. The first water billing for the association will be in February 2002 and it will be for the month of January 2002. All balances owned after the December 2001 billing will go to the previous corporation. The association will start off with water billing beginning January 1, 2002. The management of this water association will remain with Robaer Cobott until the first meeting of landowners on April 7, 2002. At this meeting we will have discussion on water system expenses, water rates, late charges, interest on late payments, time allotted before water is turned off for lack of payment, disconnect fee, re-connect fee, water system abuse by landowner, water testing daily, water testing monthly, special water testing during the year, maintenance personnel, management personnel, bookkeeping personnel and all other questions that come up. Being that this water system will be a Water System Association it will be free to organize and run this system as it sees fit. This Association will consist of three landowners that are residents in good standing, meaning that all of their water bills and fees are paid up to date. These first three landowners will be voted on and installed at this first meeting and their job will be to oversee the operations and make any decision needed in the daily or overall operations of the water system. These three landowners will be called Directors of the water system and their term will be for one year, except for the first year, or until they resign or are voted out. There will be a vote every year in November for new officers. Only residents and non-residents in good standing, current payment up to date, will be allowed to vote. Landowners will be allowed one vote for every lot or parcel they own that is on the system. These are the basic rules to start with. These rules can be adjusted or changed after the association has been in operation and finds that rules need to be changed.

All landowners will be required to make the current payments as set force in the Water Rates and Fees Affective July 1, 2001. If these payments are not paid in full they will be carried over into the Water Association for collection. Payments will remain the same until the first meeting of the Water Association and will only be changed if they elect to do so.

The statement you are receiving with this letter will be for the month of November 2001. I will be out of town and unable to send out a statement in January for December 2001. You know the amount of the monthly charge so just send in a double payment or wait until February and send in the payment for December 2001.

Thank You

P.T.E. WATER SYSTEM INC.

Telephone 208-263-2720

May 01, 2002

Dear Landowners

The Idaho Public Utilities Commission has set the rates that P.T.E Water System Inc. can charge for water. This rate was set on November 28, 2001. The amount of revenue that the Water System receives from this new rate will not pay the electric bill much less any and all other expenses. I met with the Commission on February 11, 2002 and many things were discussed. The main items they requested was all the expenses in detail for the past two years and a copy of the depreciation schedule. I delivered all the expense records to the Commission on March 30, 2002 and faxed the depreciation schedule on April 10, 2002. The Commission was made aware on February 11, 2002 that the rate they imposed that the Water System could charge would not pay the expenses. My question to the Commission was if the Water System goes out of business do to lack of revenue directly resulting from their imposed water rates the Water System can charge, then what happens to the landowners? They said that the landowners would have to put in their own wells. I told the Commission that most of the lots are too small to have a well because of the sewer system. The Commission's answer is you as landowners will have to make other arrangements for your water. I made a call to Robert Smith, at the Commission in Boise, on April 26, 2002 to find out what the Commission's decision is on the water rates after the review of all the information they requested. I was told by Robert Smith that nothing had been done and that he was busy and I would have to wait till my business worked its way up the pile of work and got to the top of the pile. I asked Robert Smith if I should call back in a week or two and he indicated I could call back but it would be better for him to call me when he works on the case again. The Water System does not have any revenue to continue in business. Ponderosa Terrace Estates Water System Inc., a public water system, will discontinue doing business as a public water system on May 05, 2002. The Water System closing is a result of not enough revenue to operate caused by the water rates imposed on the Water Company by Idaho Public Utilities Commission. I'm sorry but I'm not going to subsidize this water system. The revenue received is down 90%. You as landowners wanted the water system improved but you didn't want to pay for it. Under the jurisdiction of the Idaho Public Utilities Commission and their set of rules this water system could never survive. This public water system will be shut down on May 05, 2002.

I'm going to start a Privately owned water system on May 10, 2002. This water system will be called Ponderosa Terrace Estates Privately Owned Water System Inc.. The Main purpose of this business is to provide water service only to the lots in Ponderosa Terrace Estates and the surrounding properties owned by Robaer Cobott and Zaderea Raphael. This business will entertain selling Water Share Ownerships only if their is enough purchaser to make this idea work. This private water system will not be put into the same position as the Public Water System. There will be a small purchase price to become a Water Share Owner and the maintenance fees will be less than the last water fees set by P.T.E. Water System Inc. If any landowners or investors are interested in this please contact Robaer Cobott at 208-263-2720

THANK YOU

Robaer Cobott, Pres.

P.T.E. Privately Owned Water System Inc.

2020 Wrench Loop Road
Sandpoint, Idaho 83864

Telephone 208-261-2720

May 04, 2002

Ponderosa Terrace Estates Privately Owned Water System Inc. will commence doing business on May 10, 2002. The main purpose of this business is to provide water service to the lots in Ponderosa Terrace Estates and the surrounding properties owned by Robaer Cobott and Zaderca Raphael.

Ponderosa Terrace Estates Privately Owned Water System Inc. will also sell Water Share Ownership. Water Share Ownership, part owner in the water system, can be purchased by any persons wanting to hold a part ownership in a water company. Water Share Ownership means that for every Water Share the owner can have water service to one lot or it can be used for investment purposes. Water Share Owners will be charged a yearly maintenance fee. This maintenance fee can be paid in advance yearly or it can be paid monthly, quarterly, or every six months. The number of Water Shares to be sold at this time will not exceed 100 shares. The remaining 300 of the 400 shares will be owned by Robaer Cobott and Zaderca Raphael. Robaer Cobott will operate the P.T.E. Privately Owned Water System Inc. Share Owners will receive news letters yearly and yearly financial reports. Maintenance fees will be determined yearly based on the expenses to operate the water system. There will be two types of maintenance fees. Residential, full time use, and non-resident, part time use or for investment purposes. If water usage becomes out of control then water meters will have to be installed. The water meters will only be needed on the resident shareowners. The resident shareowner will have to pay for the meter and the installation of the meter. This cost can be paid over a one year period. If a shareowner, after the meters are installed, uses excess water compared to the other shareowners that shareowner will have their maintenance fees increased. The purchase price for one Water share ownership will be \$500.00 due at time of purchase. \$560.00 will be the purchase price to be paid over a twelve month period with payments being made monthly. Yearly maintenance fees for resident use will be \$340.00 per year or \$45.00 per month. Non-resident and for investment purposes the maintenance fees will be \$270.00 per year or \$22.50 per month. These maintenance fees are based on the assumed expenses for the year. The maintenance fees will be adjusted every year as needed, up or down. Maintenance fees were able to be reduced because of the purchase price amount that will help pay for some of the improvement in the last two years. Larry Fairfax, on site operator, is the only person allowed to turn water on or off at the property. Larry will charge for this service. Maintenance fees over 3-months behind will have their water turned off and forfeit of their ownership. Maintenance fees that are more than 30 days late will be charged \$10.00 late fee per lot per month plus 18% interest. This offering to purchase Water Share Ownership is only good until June 15, 2002. Landowners do not have to become Water Share Owners only if you want water to your property. Water to your property will keep the property value higher than without water. Water Share Ownership purchased after June 15, 2002 will cost \$2500.00 for one Water Share Ownership.

THANK YOU

The following form needs to be filled out completely if you want to purchase a Water Share Ownership, part owner in the water system, in Ponderosa Terrace Estates Privately Owned Water System Inc.

Purchaser _____ Number of Shares _____

Address _____

City and State _____ Phone No. _____

Resident _____

Non-Resident _____

Investor _____

Purchase price \$500.00 paid in full at time of purchase _____

Purchase price \$360.00 paid in monthly payments for one year _____
Payments of \$46.67 per month

One Water Share Ownership is for water service to one lot or parcel. A document will be sent to every Water Share Owner showing the number of Water Share Ownerships each owner owns. The purchaser also agrees to all the information covered in the letter dated May 04, 2002 that is attached to this purchased form.

Signature of Owner

Date

Signature of Owner

Date

Signature of Owner

Date



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

ALAN G. LANCE

January 4, 2002

Mr. Robaer Cobott
PTE Water Systems Inc.
2626 Wrenco Loop Rd.
Sandpoint, Idaho 83864

Dear Mr. Cobott:

This Commission is in receipt of the letter dated December 30, 2001 that you mailed to your customers regarding the formation of a water system association. Be informed that the Orders of this Commission including approved rates are law until changed by the Commission through subsequent Commission Orders.

Your failure to respond to prior Commission correspondence and Orders resulted in the issuance of Certificate of Convenience and Necessity No. 393 and the establishment of a \$20 per month flat rate for water service. Commission Order No. 28917 directed the Company to comply with all prior Commission Orders. Commission Order No. 28845 at page 5 ordered Ponderosa Terrace Estates Water System Inc. "...to make written petition or application to the Commission prior to any proposed change in ownership of the Ponderosa Terrace Estates Water System Inc."

Your continued failure to comply with Commission Orders will result in a complaint being filed against you in District Court. As set forth in Chapter 7, Title 61 of Idaho Code each separate offense (for failure to comply with Commission Orders, requirements and directives) is subject to a civil penalty of not more than \$2,000. Reference *Idaho Code* § 61-706. Every violation is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be deemed to be a separate and distinct offense. Reference *Idaho Code* § 61-707. Every officer, agent or employee of any public utility who fails to obey, observe or comply with any order, decision, rule, direction, demand or requirement or any provision thereof, of the Commission under the provisions of Idaho Code, Title 61, may be guilty of a misdemeanor punishable by a fine not exceeding \$1,000 or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment. Reference *Idaho Code* § 61-709.

Please respond no later than February 4, 2002 to avoid the commencement of further legal proceedings. Enclosed please find copies of the referenced Commission Order Nos. 28845 and 28917.

Sincerely,

Scott D. Woodbury
Deputy Attorney General

Enclosures

L:Cobott_sw_res

Exhibit No. 18
Case No. PTE-W-03-1
M. Fuss, Staff
4/1/03



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

ALAN G. LANCE

May 30, 2002

Mr. Robaer Cobott
Ponderosa Terrace Estates Water System, Inc.
2626 Wrenco Loop Rd.
Sandpoint, ID 83864

Dear Mr. Cobott:

After you mentioned during the May 28 Decision Meeting that you had discarded some of the PUC documents previously sent to you, the Commission was concerned that you may need replacement copies to help you prepare for the upcoming hearing. Please find enclosed the following documents:

1. Notice of Investigation, Order No. 28803, issued July 31, 2001;
2. Order No. 28845 issued September 13, 2001;
3. Order No. 28903 issued November 28, 2001;
4. Notice of Show Cause Hearing, Order No. 28911, issued December 6, 2001;
5. Notice of Vacated Hearing, Order No. 28917, issued December 14, 2001;
6. Letter dated January 4, 2002 from Scott Woodbury, DAG;
7. Notice of Proposed Increase in Rates, Notice of Modified Procedure, Notice of Comment/Protest Deadline, Order No. 29024, issued May 14, 2002;
8. Comments of Commission Staff filed May 23, 2002;
9. The Utility Customer Relations Rules (IDAPA 31.21.01);
10. Customer Information Rules (IDAPA 31.21.02);

Exhibit No. 19
Case No. PTE-W-03-1
M. Fuss, Staff
4/1/03 Page 1 of 2

Mr. Robaer Cobott
May 30, 2002
Page 2

11. Polices for Small Water Companies (IDAPA 31.36.01); and
12. Rules of Procedure (IDAPA 31.01.01).

If you need any further information please contact me at (208) 334-0314.

Sincerely,

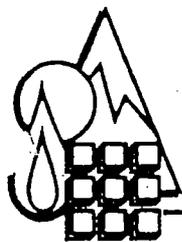


Lisa D. Nordstrom
Deputy Attorney General

Enclosures

cc: Jean Jewell

bls/L:GNRW0101_in



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

May 31, 2002

Mr. Robaer Cobott
Ponderosa Terrace Estates Water System, Inc.
2626 Wrenco Loop Rd.
Sandpoint, ID 83684

RE: May 27, 2002 letter requesting information

Mr. Robaer Cobott:

In your letter dated May 27, 2002 you request several pieces of information. The following is a response to that request.

Request No. 1: I want a list of all the Public Utilities in the State of Idaho.

Response No. 1: The Public Utilities Commission does not compile a complete list of all Public Utilities in the State of Idaho. However, every year the Commission provides an annual report on all regulated utilities. Enclosed is a copy of the Idaho Public Utilities Commission's 2001 Annual Report.

Request No. 2: I want a separate list showing the Public Utilities that you are currently handling.

Response No. 2: Enclosed as part of Response No. 1.

Request No. 3: I want all the names of the contact persons, addresses, phone numbers, number of hookups of each, and what the water rates are.

Response No. 3: Pages 46 & 47 of the 2001 PUC annual report includes a list of all regulated water companies, the number of customers, hook-up fees, monthly residential rates, and the date rates were last revised. Additionally, enclosed are current copies of the annual reports provided by the regulated water companies. The annual report information is not audited, however, it does represent what each utility believes to be accurate information.

Exhibit No. 20
Case No. PTE-W-03-1
M. Fuss, Staff
4/1/03 Page 1 of 2

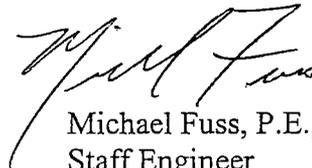
Robaer Cobott
May 31, 2002
Page 2

The following annual reports are enclosed:

<u>Company Name</u>	<u>Date of Report</u>
Bar Circle "S" Water Inc.	2000
Bitterroot Water Co.	2001
Brian Water Co.	2001
Capitol Water Corp.	2001
Country Club Hills Utilities	2001
Eagle Water Co., Inc.	2000
East Moreland Water Co. (now Humpy's)	2001
Evergreen Water Co.	2000
Falls Water Co., Inc.	2001
ESI, Inc.	2001
Grouse Point Water Co.	2000
Happy Valley Water System	2000
Island Park Water Co.	2001
Morning View Water Co., Inc.	1991
Murray Water Works	2000
Packsaddle Estates Water Co.	2001
Picabo Livestock Co.	2001
Rickel Water Co.	2001
Spirit Lake East Water Co.	2001
Stoneridge Water Co.	2000
Sunbeam Water Co.	1997
Troy Hoffman Water Co.	2001
United Water Idaho	2001

We hope the enclosed information meets to your satisfaction. If you have any questions regarding this information please feel free to contact Michael Fuss at (208) 334-0366.

Sincerely,



Michael Fuss, P.E., MBA
Staff Engineer

mfuss/Cobott request No. 1

COPY

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION)	
INTO WHETHER PONDEROSA TERRACE)	Case No.
ESTATES WATER SYSTEM, INC., IS A)	GNR-W-01-1
PUBLIC UTILITY SUBJECT TO)	
REGULATION BY THE IDAHO PUBLIC)	TECHNICAL and
UTILITIES COMMISSION)	PUBLIC HEARING
)	
)	

HEARING BEFORE

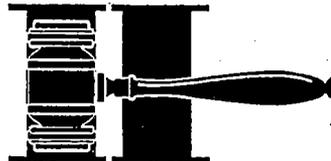
COMMISSIONER PAUL KJELLANDER (Presiding)
COMMISSIONER DENNIS S. HANSEN
COMMISSIONER MARSHA H. SMITH

PLACE: Edgewater Resort
56 Bridge Street
Sandpoint, Idaho

DATE: June 20, 2002

VOLUME I - Pages 1 - 236

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Exhibit No. 21
Case No. PTE-W-03-1
M. Fuss, Staff
4/1/03 Page 1 of 13

1 landowners want water but most don't think they
2 should have to pay much for it. The realization is
3 with all the controls on water these days, water is
4 not cheap anymore.

5 That's all I have to say at this
6 moment.

7 COMMISSIONER KJELLANDER: Thank you,
8 Mr. Cobott. And at this point then, we will open up
9 for cross-examination from the deputy attorney
10 general.

11 MS. NORDSTROM: Thank you.

12
13 CROSS-EXAMINATION

14
15 BY MS. NORDSTROM:

16 Q. Just as a couple preliminary
17 questions, although the water system is located in
18 the subdivision, your principal place of business is
19 in Sandpoint. Is that correct?

20 A. It's outside of Sandpoint.

21 Q. Okay. Is that the address 2626 Wrenco
22 Loop Road in Sandpoint?

23 A. Yes.

24 Q. Okay. And the name on your -- the
25 documents you sent us is PTE Water System, Inc. I

1 take it from the "Inc." that you're incorporated?

2 A. Yes.

3 Q. So you filed something with the
4 Secretary of State?

5 A. Every year.

6 Q. Okay. I've gathered thus far that
7 there are only two employees of the Company:
8 Yourself and Mr. Fairfax. Is that correct?

9 A. Yes.

10 Q. Okay. Staff's testimony has indicated
11 that, you know, depending on -- well, Mr. Smith's
12 direct testimony talked about labor costs totaling
13 about \$9,000, and then he gave a different option in
14 his rebuttal testimony which was about \$10,000.

15 If I understand you correctly, you
16 would like \$12,000. That's \$1,000 a month for
17 twelve months. Is that correct?

18 A. Yes.

19 Q. Okay. So we're not too far apart if
20 I'm understanding this correctly.

21 In your testimony, you listed all the
22 tasks that were required to operate and manage the
23 Company. Now, was that just the things that you
24 do? Does that include Larry or the stuff that he
25 does, or is that not accounted for in your list?

Exhibit No. 21
Case No. PTE-W-03-1
M. Fuss, Staff
4/1/03 Page 3 of 13

1 A. That's not accounted -- Larry's is not
2 accounted for.

3 And getting back to your previous
4 question, maybe I misunderstood that. What are you
5 talking about eight or 10,000 and going to 12,000,
6 what do you mean by that?

7 Q. Well, when I initially read your
8 testimony I thought that these were all your
9 expenses, and since Larry -- or, Mr. Fairfax -- had
10 quit and wasn't working for you anymore, that you
11 were going to do everything, and if so, what you
12 were asking for was \$1,000 a month. Is that right
13 or am I misunderstanding something?

14 A. No, that's not right.

15 Q. Okay.

16 A. You're coming up with a total yearly
17 expenses of 12,000. Was that what you said just a
18 moment ago?

19 Q. For labor, yes.

20 A. How can it be 12,000 if you've got
21 eight or 10,000 in other related expenses, labor
22 expenses, and you haven't even figured in my wages
23 yet?

24 Q. Well that's what I was trying to
25 determine, because I didn't know -- because

1 that's -- when I understood that you filed your
2 testimony, I thought that Mr. Fairfax wasn't working
3 for you. Is he working for you now?

4 A. The only thing he's doing and only
5 because the electric is still hooked up, we haven't
6 got it changed yet, he's taking the daily testing is
7 the only thing he's doing. There's no water repairs
8 being done which need to be done, and that's all
9 he's doing at this time, and compensation for -- his
10 compensation for doing that is his electric bill.

11 Q. Okay. So what is the total labor
12 expense that you're recommending that the Commission
13 adopt --

14 A. It --

15 Q. -- for both of you?

16 A. -- appears that my wages are showing
17 \$320 a month: \$80 a week times four. I'm saying
18 1,000. So you're talking about \$680 difference per
19 month over a year, 12 months.

20 Q. Well, I was wondering if we focused on
21 the total labor costs and not just the salaries of
22 individual people but the overall labor costs. It
23 might be the differences would help resolve
24 themselves, because as there's been previous
25 testimony, the costs don't have to be allocated

1 specifically for the various experiences so long as
2 they're expended on behalf of the Company.

3 So what is the total amount of labor
4 costs that Ponderosa is recommending for the
5 services that you provide and Mr. Fairfax provide to
6 the Company?

7 A. You're showing -- you're showing, what
8 was it, 8,000 or 10,000 before we are talking about.

9 Q. In that range, nine to \$10,000.

10 But then there was -- we also
11 identified a couple of line items, line item 10 and
12 line item 33 that were about another \$5,000 for
13 major repairs and emergencies?

14 A. So you're probably looking at
15 somewhere around 20,000? That's a ballpark, but I'm
16 not sure about all these little figures you're
17 talking about.

18 Q. Well --

19 A. I stated I wanted \$1,000 a month.
20 Right now it's \$320 a month based on four weeks.

21 Q. Okay. So the 17 items that are listed
22 on pages 1 and 2 of your testimony include all the
23 management, operation, and maintenance activities
24 except for those that Mr. Fairfax does. Correct?

25 A. Well, there's no maintenance on there.

1 I don't have anything listed that I'm going out and
2 digging up pipe or any of that type of thing, or
3 working on the chlorinator or anything like that, or
4 taking water tests. I did not state any of that in
5 this.

6 Q. Okay.

7 A. I stated in there that I wanted --
8 that I keep records of the flow meter, of the
9 different things that I need to keep records of the
10 free chlorine tests daily, the flow meter records
11 daily, this type of thing.

12 Q. So what dollar amount of labor
13 expenses for things like water testing and things
14 that Larry used to do are not accounted for? What
15 dollar amount should the Commission pay for?

16 A. Well the thing there is if I have to
17 physically go out there every day, drive from my
18 home and go out there and take the water tests and
19 do these things every day, it's going to be pretty
20 costly. I don't want that to happen. It's about an
21 hour's drive each way from my house.

22 That's why Larry sent me a application
23 permit -- application for a permit -- to get his
24 electric separated from Ponderosa. That has not
25 been done yet for the simple reason Larry doesn't

1 have the money to get it done and I don't have the
2 money to get it done. What's involved is we have to
3 have another meter installed and we have to call the
4 power company out to switch. It's still going to be
5 under Ponderosa's name, but it's going to be
6 Ponderosa well site and -- what did I put down,
7 Ponderosa house or something like that -- Ponderosa
8 house. That's the way we're going to get two
9 different bills from the power, and that's the way
10 it was going to be broke down. That has not been
11 done yet.

12 The water system has not received
13 revenue to keep up with all the bills and expenses,
14 it just hasn't. 100 to -- to 180 a month doesn't do
15 it, not even close. And I did pay two months of the
16 electric bill. I owe another month. There's
17 probably another month coming due now. But -- and I
18 paid the testing company, Acura Testing in
19 Coeur d'Alene. Outside of that, everything else has
20 just been kind of carrying forward.

21 Q. Do you anticipate that you will be
22 able to contract with Mr. Fairfax or some other
23 individual to help do your on-site daily testing of
24 water?

25 A. That's why Fairfax -- Mr. Fairfax --

1 is here today. He wants this to work and I want it
2 to work. Mr. Fairfax has been doing the work on
3 this system for many years now. He knows where
4 every pipe is, where every valve is.

5 He's personally gone up to the -- went
6 up to the tanks, drained the tanks. He actually got
7 inside the tanks and cleaned them all with chlorine,
8 resurfaced. What they do is they have a tank and
9 another tank sits on top and there's a seal. He
10 redid the seals, cleaned them all up. He knows
11 everything about the system, where everything goes.

12 He's experienced as far as all of a
13 sudden you see water. He knows where to dig to find
14 that leak.

15 I was told that from I think it was
16 Randy Low (sic) is it or something that you will --
17 Lodd (sic) or something like that -- that most water
18 systems have about a 30-year life as far as pipes
19 and stuff go. Well, these pipes have been in the
20 ground now for 32 years. There's going to be
21 repairs and there has been repairs, but overall I
22 think the system is sound.

23 A lot of people have accused the
24 system of having water leaks, that's why we run out
25 of water. Well that's why we take the flow meter

1 readings. If we have serious leaks, then the
2 serious leaks should be there 12 months a year. My
3 question is how come I can use 30,000 gallons a day
4 in the summertime and eight or 9,000 in the winter,
5 and it's the same amount of resident use. Something
6 is -- somebody here is -- well, I'm going to use the
7 word -- "abusing" the system.

8 Q. Okay.

9 A. That's where meters come in. You put
10 a meter on a system, you can tell instantly if that
11 house has a leak. You make sure all the water
12 inside the house is turned off and you look at the
13 meter. If that meter is running, then there's an
14 underground leak on the property. I can't go on the
15 property and fix underground problems, but I can
16 sure inform the landowner that they better fix that
17 leak or you're going to get your water turned off.

18 Q. Speaking of equipment and meters and
19 such, I had a question. On your page 3 the question
20 is do you own any equipment that is used by the
21 Water Company, and I took that to mean construction
22 equipment as opposed to --

23 A. Well, I have an excavator.

24 Q. Right, construction equipment like
25 excavators, as opposed to pumps and pipes and other

1 things that are part of the company?

2 A. You're correct.

3 Q. Is that correct?

4 A. That's correct.

5 Q. Other than the incident you mentioned
6 and back in the late '90s when your address was
7 being changed on Wrenco Loop Road, have you had any
8 trouble receiving your mail recently, like within
9 the last six months or a year?

10 A. No, as long as the address is
11 correct. The problem there was when I had the 1600
12 Wrenco Loop, there was another address the same
13 vicinity just up the road a ways called Wrenco
14 Heights 1600. They were getting a lot of my mail.
15 When the County came out and changed the addresses
16 for emergency vehicles, there's still 1600 away from
17 me now. I'm 2626, which means I'm 2.6 miles in.
18 And so that's where some of the confusion comes.

19 And a lot of these people were
20 reluctant to accept their new addresses. In fact,
21 the Post Office told me when I went in and told them
22 I wanted to change the address and the guy said,
23 Well, I wouldn't do that. I'd keep them both.

24 Just shows you how people -- I don't
25 know.

1 Q. Okay. Well, I just wanted to make
2 sure that you were receiving correspondence from the
3 Commission.

4 A. Yes, as far as I know.

5 Q. Did you receive a big packet of Orders
6 and Rules and things?

7 A. Yes.

8 Q. Okay. That's good.

9 A. Michael Fuss had already given me a
10 packet of Rules too when he met with me.

11 Q. We just want to make sure you have
12 those.

13 I know we've talked about different
14 turnoff and turnon fees for water. In your
15 testimony you mentioned \$50 apiece, but then you
16 discussed a few minutes ago, you mentioned \$10
17 apiece?

18 A. No, that was --

19 Q. Are we referring to different fees?

20 A. That was -- let's say that you are a
21 landowner and you're current, everything is fine,
22 but you're going to leave for two, three months,
23 maybe the wintertime, so then you want your water to
24 protect anything breaking in your house and causing
25 havoc, then you want your water turned on at --

1 turned off at the road. Then either Larry -- in the
2 past it's been Larry -- would go out and he would
3 turn the water off for you. And then when you come
4 back, you contact him and he would turn it on for
5 you.

6 Q. So the \$10 fee is more to protect the
7 resident while they're gone, rather than to protect
8 the system once someone stops paying their bills?

9 A. It's nothing to do with stop paying
10 the bill.

11 Q. That's what the \$50 fee --

12 A. Just like Mr. Peterson over here. He
13 was coming up and he called. Larry just happened to
14 be -- I was with Larry. This was a couple weeks ago
15 or week and a half, something like that, and he
16 stopped by and he turned his water on because he
17 knew he was coming up. That's a very smart way for
18 these landowners to do it, but not everybody does
19 it.

20 Q. I see. Thank you for clarifying
21 that. I think that's all the questions I have.
22 Thank you.

23 COMMISSIONER KJELLANDER: Are there
24 questions from the Commission?
25

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 1ST DAY OF APRIL 2003,
SERVED THE FOREGOING **DIRECT TESTIMONY OF MICHAEL FUSS**, IN CASE
NO. PTE-W-03-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE
FOLLOWING:

ROAER COBOTT
PONDEROSA TERRACE ESTATES
WATER SYSTEM
2626 WRENCO LOOP ROAD
SANDPOINT ID 83864


SECRETARY