Office of the Secretary
Service Date
December 16, 2008

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN UTILITY COMPANY, INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.	)	**CASE NO. ROC-W-08-01**
	)	**ORDER NO. 30703**

On May 13, 2008, Rocky Mountain Utility Company[1] filed an Application for a Certificate of Public Convenience and Necessity (CPCN) seeking authority to provide water service as a public utility near Rigby, Idaho. The Application stated that the Company was currently providing water service to 38 residential customers at no charge. The Company requested authorization to charge an interim monthly flat rate of $28.50 pending a final order of the Commission. In this final Order we grant the CPCN and set permanent rates.

BACKGROUND

A. Procedural History

On June 20, 2008, the Commission issued a Notice of Application, set a deadline for intervention, and approved an interim monthly flat rate of $28.50 pending a final Order. Order No. 30576. No persons petitioned to intervene. The case proceeded under Modified Procedure pursuant to Order No. 30601. Staff conducted a workshop on August 13, 2008, and submitted its comments on September 12, 2008.

During the Commission's public hearing held on September 23, 2008 in Rigby, several questions were raised concerning the Company's Application. To clarify these issues, Staff sent a Second Production Request to the Company on September 25, 2008. The Company responded to Staff's request on October 8. Additional clarifications to the Company's responses were obtained by Staff through phone discussions with Company personnel. As a result of the new information provided by the Company, Staff submitted supplemental comments on November 13, 2008. The Company filed responsive comments on November 24, 2008.

[1] Rocky Mountain Utility Company provides water service to residents in/near the City of Rigby, Idaho, and is in no way associated with Rocky Mountain Power.

B. The Application

The Application stated that the Company owns a water system that currently provides water to Pepperwood Crossing Subdivision located four miles south of Rigby and serves 38 residential customers. The Company asserted that the water system has the capacity to serve 255 users. Based on the system's capacity, the Company requested authorization/ certification to provide water not only to Pepperwood Crossing, but also to three other subdivisions not yet developed. Rocky Mountain requested authorization to charge an unmetered, flat rate of $42 per customer per month. This proposed rate made no distinction between customer type/class.

ISSUES

A. Revenue Requirement and Rate Base

The water company is owned and operated by Rocky Mountain Utility Company, Inc. This Company also owns and operates a sewer company that serves the same service area as the water company. Two other affiliated companies, Landmark Development and Silver Creek Construction Co., also share expenses with the water company.

Company records show annual operating and maintenance expenses of $32,995. After a thorough audit, Staff made numerous minor adjustments in a variety of categories. Staff Comments, Attachment A. After incorporating the adjustments, Staff recommended annual operating and maintenance expenses of $26,679. *Id.* at 4. The Company did not dispute Staff's expense recommendations.

The Company also recorded plant in service in the amount of $436,285. Staff deemed the $436,285 to be contributed capital by the developer. *Id.* at 2. Although the Company did not dispute the issue of contributed capital, nor did it ask for any rate of return on the developer's investment, the Company did request that it receive depreciation/refurbish costs in the amount of $9,437 annually. Staff opposed the Company's attempt to recover depreciation for any initial investment costs of the water system. *Id.* at 3.

Commission Findings: The Commission has consistently held that a developer's capital investment in a small, domestic public water system is to be considered contributed capital and, therefore, not included in rate base. IDAPA 31.36.01.103. We find that to be the case here. To allow the Company to capture the cost of the initial investment through the depreciation expense would violate the long-standing policy regarding contributed capital.

Furthermore, the Company has not stated any specific water system need that would necessitate the collection of this additional $9,437 in customer rates. Therefore, we conclude, based on our finding of contributed capital, that the Company does not have any rate base. Consequently, annual operating expenses are what the Company should recover in rates. Based on the results of a thorough audit, and absent any objection from the Company, the Commission finds that the Company's total annual revenue requirement is equal to its annual expenses.[2] Because the Company's annual expenses are, in part, dependent on the number of customers, the amount of the Company's approved annual revenue requirement is set out in greater detail below.

RATE DESIGN

A. Monthly Flat Rates

The Company proposed a monthly flat rate for all customers of $42 without regard to the number of customers or their classification.

Based on initial information provided by the Company, Staff calculated a flat monthly rate of $48.50 based upon the revenue requirement of $26,679 and 46 total customers (44 residential and 2 commercial customers). *Id.* at 10. New data and information provided by the Company in response to Staff's Second Production Request caused Staff to adjust its total customer count to 67 (64 residential and 3 commercial). Supplemental Comments at 3. Without adjusting the revenue requirement for an increase in pumping/power costs based on an increase in customers, Staff recalculated the flat monthly rate in its supplemental comments to be $33.25.

In response to Staff's supplemental comments, Rocky Mountain filed reply comments stating that it believed Staff incorrectly included nine, uncompleted government-sponsored (Eastern Idaho Community Action Partnership) homes in the customer count. The Company asserted that including the nine homes would be too speculative because the homes would not be occupied for at least one year. The Company, therefore, suggested a monthly flat rate of $35.00 for water service.

Commission Findings: After reviewing the calculations and justifications of both Staff and the Company, the Commission finds that the Company's rate design should be based on 58 total customers (67 minus 9 EICAP homes). The current economy does not warrant or

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[2] Staff recommended a revenue requirement of $26,679 based on the Company's report of 46 customers. However, the revenue requirement is subject to adjustment for an increase in pumping/power costs based on an increase in customers.

support the inclusion of homes that are not expected to be completed and/or occupied for more than a year. Consequently, we find that it is just and reasonable for the Company to collect annual revenues of $27,294 based on 58 total customers, for a flat monthly billing rate of $39.50.

It is also important that we address the lack of individual meters. It has been the Commission's experience that water companies that fail to install individual meters encounter more difficulty managing both the water system and revenue recovery. Moreover, customers should be billed based on water consumption. Installing individual meters as part of all future construction will allow the Company to match the variable cost of delivering water with revenue generated by that usage, thereby improving cash flow. The Company is directed to file a report with the Commission within 12 months from the date of this Order confirming that it is installing meters as a part of all new construction and detailing its plan to retrofit existing customers with individual meters .

B. Non-Recurring Charges

The Company did not request in its Application that any non-recurring charges be approved by the Commission. Non-recurring charges are designed to give appropriate price signals to customers and allow the Company to recover a reasonable portion of its costs to provide certain services or pursue collection of bills.

Commission Findings: Based upon Staff's recommendation, the lack of any objection and the use of similar rates for other small water companies, the Commission finds it reasonable for the Company to incorporate the following charges as part of its tariff:

Returned Check Charge	$20
Reconnection Charge	$20 during normal business hours
After-hours Reconnection Charge	$40
Field Collection Trip Charge	$20 (*i.e.*, paying to avoid imminent disconnection)
Shut-off at Customer's Request	$20 during normal business hours
	$40 after normal business hours
Late Payment Charge	1% monthly on unpaid balance owing

C. Hookup Fee

A hookup fee is generally included as part of a small water company's non-recurring tariff charges. As the result of an inquiry by Staff, the Company requested a $250 hookup fee.

Staff recommended a hookup fee of $150 based on the time, labor and equipment necessary to locate and turn on the shut-off valve. Because the water system does not currently use individual meters, Staff's recommendation for a hookup fee does not consider a distribution line extension, meter box, setter, or meter.

During the Commission's public hearing on September 23, 2008, several Rocky Mountain customers testified that the builders and/or homeowners were charged $1,500 for a hookup/connection fee. According to the Company, the total hookup fee collected per customer was for the combined sewer and water charges. The Company did not further explain the allocation between the sewer and water charges, nor did the Company elaborate as to the specific purpose of the hookup fee.

Based on the theory of contributed capital, Staff asserted in this case that the cost of the water system was recovered through the sale of lots. Supplemental Comments at 4. Indeed, the "hookup" fee was paid by homeowners either as part of the cost of the lot (for those who paid the fees as part of lot sale closing), or as part of the cost of building a residential home (for those who paid separately). Although termed a "hookup" fee by the developer, Staff maintained the charge was merely a way to recover some of the capital expenditures of the water and sewer systems' construction through the sale of lots/purchase of homes. Unfortunately, the developer used a regulatory term-of-art which subjected the fee to scrutiny. These are not the type of charges usually classified as hookup fees.

Commission Findings: Based upon our review of the evidence and the comments of the parties, the Commission finds $150 to be a reasonable hookup fee based on the cost of Company time, labor and equipment involved in locating and turning on a shut-off valve. Although called a "hookup fee" in the escrow closing documents, the $1,500 "fee" was established to partially recover the cost of the water system through the sale of lots and purchase of homes. Monies paid by builders and homeowners to the developer at closing are not the "hookup fees" regulated by this Commission for service initiation.

CERTIFICATED AREA

Rocky Mountain currently serves only the Pepperwood Crossing Subdivision. According to the Company's Application, in the event that Division I and Division II of the Pepperwood Subdivision are fully built-out, there will be an estimated 247 residential customers

and 8 commercial customers.[3] The Company is requesting a CPCN for the entirety of Pepperwood Crossing and three additional, undeveloped, subdivisions – Autumn Heights, Mill Creek Estates, and Monarch Springs.

Staff recommended that the Commission issue a CPCN for only the existing improved residential and commercial areas included in the Pepperwood Crossing Subdivision. This is the only area that has an existing water supply system. When additional areas are developed in the future, Staff recommended that the Company apply for modification of the Certificate with a corresponding Staff review of the adequacy of the water supply system serving the new areas at that time.

Commission Findings: The Commission finds that the present and future public convenience and necessity require water service to the Pepperwood Crossing Subdivision. *Idaho Code* § 61-526. However, the Commission finds it reasonable to limit the Company's CPCN to the existing improved residential and commercial areas in Division I Pepperwood Crossing Subdivision. The Company may request modifications of its certificate as the other areas are developed.

MISCELLANEOUS ISSUES

1. Tariff. The Company did not submit a proposed tariff with its Application. Therefore, we direct the Company to prepare its tariff based upon the approved monthly water rates, non-recurring charges, and general rules and regulations using the model tariff provided by Staff. The tariff shall be submitted no later than 14 days from the service date of this Order.

2. Customer Relations and Billing. Staff noted that Rocky Mountain's customer relations material and billing documentation do not currently comply with the Utility Customer Relations Rules (UCRR), IDAPA 31.21.01.000, *et seq.* Comments at 14. Consequently, we further direct the Company to work with Staff to correct its billing documentation. It is necessary that the Company update its monthly customer bills to include the specific due date as required under the Utility Customer Relations Rules. Notices sent to customers prior to termination must list the reconnection charges as approved by the Commission. The Company is further directed to revise the payment arrangement section of its bills and notices to meet the

[3] Division I is the only part of the subdivision that presently has any built infrastructure including roads, electric utility distribution, and sewer and public water supply systems.

Commission's rule requirements. Finally, all customer billing and collection documents must include current information on how to contact the Company.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

We find that Rocky Mountain Utility Company is a public utility pursuant to *Idaho Code* §§ 61-124, 61-125, 61-129. Rocky Mountain is granted a Certificate of Public Convenience and Necessity pursuant to *Idaho Code* § 61-526. Having fully reviewed the record in this proceeding, we find that it is just and reasonable for the Company to collect annual revenues of $27,294 based on a flat monthly billing rate of $39.50.

We conclude that the rates and charges set in this Order are fair, just and reasonable.

ORDER

IT IS HEREBY ORDERED that Rocky Mountain Utility's request for a Certificate of Public Convenience and Necessity is granted and modified above. Certificate No. 481 shall be issued as a separate document.

IT IS FURTHER ORDERED that the Company implement the rates and charges as set out in this Order.

IT IS FURTHER ORDERED that the Company shall submit tariffs in compliance with the rates and charges identified in this Order no later than (14) days from the service date of this Order. The rates and charges authorized by this Order shall become effective for service rendered on and after January 1, 2009.

IT IS FURTHER ORDERED that Rocky Mountain Utility file a report with the Commission within twelve (12) months of the date of this Order detailing its plan to retrofit the existing customers with individual meters.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 16th day of December 2008.

MACK A REDFORD, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

JIM D. KEMPTON, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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